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1983 ANNUAL REPORT

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U.S. FEDERAL TRADE COMMISSION
WASHINGTON, D.C.

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Annual Report of the

FEDERAL TRADE COMMISSION

For the Fiscal Year Ended

September 30, 1983

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MICHAEL PERTSCHUK, *Commissioner*
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LETTER OF TRANSMITTAL

May 10, 1984

FEDERAL TRADE COMMISSION
Washington, D.C.

To the Congress of the United States:

It is a pleasure to transmit the sixty-ninth Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended September 30, 1983.

By direction of the Commission.

JAMES C. MILLER III
Chairman

THE PRESIDENT OF THE SENATE

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

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FEDERAL TRADE COMMISSION
1983 ANNUAL REPORT

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SUMMARY

Fiscal 1983 was a year of continued progress toward assuring the Commission its proper role as an effective and responsible law enforcement agency.

While the Commission continued its commitment in carrying foward its statutory responsibilities, it also pursued four major goals:

I. IMPROVED RESOURCE ALLOCATION

The Federal Trade Commission Act authorizes the Commission to bring complaints against those thought to be violating the law when that would be in the interest of the public. That admonition—to act in the public interest—combined with the usual responsibility of a law enforcement agency to exercise its prosecutorial discretion in an intelligent manner, means that the Commission must be careful to allocate its law enforcement resources to those matters that will be of most benefit to the public.

To accomplish this objective, the staff has been instructed to be mindful in case selection that one of the major purposes for which the Commission was created was to provide economic expertise in assessing the impact of various commercial and business practices.

In the Maintaining Competition Mission, economics has taught us that consumers are harmed most when competing sellers restrain competition among themselves. Therefore, the Commission has emphasized such horizontal restraints, and our efforts are now producing significant benefits.

In the Consumer Protection Mission, Commission efforts have been directed at specific abuses that threaten or cause harm to consumers. The staples of our enforcement program are fraud, deceptive advertising, systematic breach of contract, and enforcement of Commission rules and other statutes.

II. REDUCE ADVERSARIAL POSTURE/IMPROVE COOPERATION

During fiscal 1983, the Commission created a new and beneficial atmosphere for all people affected by its policies. The Commission invited consumer groups to share their ideas. Potential litigants were invited to discuss and resolve their problems. The Commission also encouraged those in the commercial sector to ask for advice in order to prevent avoidable problems, and such advice has been given on many occasions.

III. IMPROVED MANAGEMENT

The Commission's efforts to improve the management of the agency—to make its work more effective and reduce waste—have progressed significantly during fiscal 1983. The Commission has reduced the number of independent entities within the bureaus and clarified lines of authority. The Commission has made sure that the agency's lawyers and economists work closely at each stage of litigation.

The Commission also unanimously voted changes in its procedures to speed decision-making at the highest levels of the Commission and thus make the agency more effective.

IV. UNDERSTANDABLE POLICIES AND CRITERIA

During fiscal 1983, the Commission has attempted to provide those subject to and protected by its rules a greater measure of predictability about the Commission's enforcement criteria and policies.

Accordingly, the Commission has issued its statement on deception, articulating its interpretation of the law and explaining its enforcement policy.

The organization of the Commission is divided into three bureaus which carry out the Congress' two mandates: maintaining competition in the marketplace and protecting the consumer. The following is a summary of the Federal Trade Commission's accomplishments in fiscal 1983.

MAINTAINING COMPETITION MISSION

The mission of the Commission's Bureau of Competition is to enhance the welfare of consumers by maintaining the competitive operation of our economic system of private enterprise. The Bureau carries out its mission by enforcing the antitrust provisions of the Clayton Act and the Federal Trade Commission Act, as well as by serving as a vigorous advocate of competition before Congress and other governmental bodies.

SUMMARY OF ENFORCEMENT ACTIVITIES

During fiscal 1983, the Commission initiated 171 initial phase and 34 full phase investigations of possible violations of the antitrust laws. The Commission issued 1 administrative complaint, accepted 13 consent agreements, and issued 9 advisory opinions relating to competition matters. The United States Court of Appeals for the Eighth Circuit issued a decision in an appeal of a Commission decision, and the Supreme Court declined to hear one challenge to a Commission order, and remanded another to the Commission for entry of an agreed-to order.

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HEALTH CARE

During fiscal 1983, Congress rebuffed efforts by some health care providers to strip the Commission of its jurisdiction over the health care professions. Following policies established in prior administrations, the Commission continued to devote major resources to an effort to detect and prosecute antitrust violations in this industry, which accounts for nearly 10 percent of the gross national product.

Of particular importance were efforts in the area of advertising by health professionals. The Commission published a proposed consent order against the *Washington, D.C. Dermatological Society*, and issued final consent orders against the *Association of Independent Dentists* and the *Michigan Association of Osteopathic Physicians and Surgeons* which prohibit them from interfering with truthful advertising by their members. These important cases follow the Commission's decision in the *American Medical Association* case, upheld by the Supreme Court in fiscal year 1982, which ruled that the AMA's restrictions on truthful advertising by physicians violated the antitrust laws.

The Commission reviewed a variety of activities by health care professionals relating to cost-containment and other policies of medical insurers. The Commission upheld a decision by an Administrative Law Judge that the *Michigan State Medical Society* had conspired to boycott cost-containment and reimbursement policies of insurers. The Commission's order bans the Michigan State Medical Society from participating in boycotts of insurers or entering into agreements with its members to regulate the amount or terms of reimbursement for physician services. The Commission also ruled that *Indiana Federation of Dentists* violated the antitrust laws when it agreed with its members and others to obstruct cost-control efforts of insurers by collectively refusing to submit existing x-rays for insurance company evaluation, and the *Texas Dental Association* agreed to a similar order. *State Volunteer Mutual Insurance Co., Inc.*, a physician-owned medical malpractice insurance company, agreed not to discriminate against physicians who supervise self-employed nurse-midwives.

In recognition of the health care industry's need for guidance in this evolving area, the Commission issued several advisory opinions relating to health care issues. An advisory opinion to the *American Academy of Opthamology* by the Commission reviewed the professional society's code of ethics and cautioned against possible misuse of several of its rules.

A Commission advisory opinion to the *Rhode Island Professional Standards Review Organization* and a staff advisory to the *American Podiatry Association* examined peer review programs. A form of preferred provider organization, designed to finance and deliver health care services of a limited number of professionals, was found likely to be procompetitive

in a Commission advisory opinion to *Health Care Management Associates*. Finally, the Commission advised *Burnham Hospital* that an exclusive contract under which a group of radiologists operated the hospital's radiology laboratory would be lawful if the contract was made in the interest of the hospital, and was not the result of efforts by the medical staff to restrict competition among physicians.

HORIZONTAL RESTRAINTS

Antitrust enforcement activity during fiscal 1983 reflected an increasing emphasis on prohibiting agreements between competitors which injure competition. Although such agreements have been the subject of numerous investigations in the health care area, they are also an increasingly important focus in non-health care cases.

During 1983, the Commission upheld an Administrative Law Judge's ruling that the *Massachusetts Furniture and Piano Movers Association* had unlawfully conspired to set rates and restrain competition in Massachusetts' moving industry. The Order prohibits the Association from engaging in any collective rate making activities. In the *Ethyl* case, the Commission upheld in part a 1981 Administrative Law Judge's decision that Ethyl Corporation's and E. I. duPont de Nemours & Co.'s use of certain "facilitating practices", such as advance price announcements, uniform pricing and "most favored nation" clauses restrained price competition. The Commission also upheld a finding that it was unlawful for two individuals to serve as directors of *Borg-Warner Corporation*, Robert Bosch GmBH, and its American subsidiary, Robert Bosch Corporation. All three companies were competitors in the sale of ignition parts, wire and cable products and carburetor tune-up kits for foreign cars.

Consent agreements were obtained from *Great Dane Distributors Council* and *Dillon Companies, Inc.* Great Dane Distributors Council, an association composed of dealers of Great Dane Trailers, Inc., agreed not to impose territorial or customer restrictions among its members. Under a separate agreement, Great Dane Trailers Inc., a truck manufacturer, is prohibited from assisting the dealer organization in restraining competition among its members. Dillon Companies, a Kansas grocery retailer, was prohibited from interfering with an independent firm's collection and publication of comparative price surveys based on items checked in Dillon's stores. Dillon was prohibited from interfering with the collection of comparative grocery price data.

Civil penalties were also a part of the Commission's horizontal restraints program. The *Joseph Dixon Crucible Company* agreed to pay $600,000 to settle charges that it violated a Commission cease and desist order by participating in a price fixing conspiracy. *Binney & Smith, Inc.*, *Milton Bradley Co.*, and *American Art Clay Co.* agreed to pay $1.25 million to

settle charges that they participated in a price-fixing conspiracy in the art materials industry during the period between 1972 and 1979. The money will be paid to an escrow account, from which consumers, primarily state school boards, will be refunded overcharges.

Finally, substantial case generation efforts were undertaken during 1983 to develop additional horizontal restraints cases. These efforts will be reflected in the Commission's caseload in coming years.

MERGERS AND ACQUISITIONS

Mergers and acquisitions remained an important focus of antitrust enforcement review. Under the provisions of the Hart-Scott-Rodino Act, businesses filed 1,971 submissions for 1,093 merger and acquisition transactions during the fiscal year. Thirteen of the transactions resulted in the issuance of requests for additional information.

An Administrative Law Judge ordered *American Medical International, Inc.* to divest French Hospital in San Luis Obispo, California, because he concluded the hospital's acquisition had reduced price competition and eliminated nonprice competition among area hospitals. The Commission also filed a complaint against *Schlumberger Limited* alleging that its acquisition of Accutest Corporation could give it monopoly power in the market for automatic computer test equipment.

Nine companies agreed to divest assets to settle antitrust charges. In high technology fields, *Xidex Corporation*, the nation's leading manufacturer of duplicating microfilm, agreed to license microfilm technology to settle charges that its acquisitions of two microfilm businesses reduced competition in the industry. *Allied Corporation*, a leading supplier of chemicals to the electronics industry, agreed to divest a subsidiary which produced high-purity acids used by the semiconductor industry and in laboratories. Under the agreement Allied must license its patents and know-how relating to manufacturing and packaging high-purity acids to the purchaser for 10 years.

ConAgra, Inc. agreed to divest several flour production and distribution facilities in western states, and *Flowers Industries, Inc.* agreed to sell bakery plants in Gadsden, Alabama and High Point, North Carolina. *Canada Cement Lafarge, Ltd.*, a major cement manufacturer, agreed to sell a cement plant and *Jim Walter Corporation* agreed to divest four asphalt roofing plants. *Batus, Inc.* agreed to divest a department store in Milwaukee, and *Coca-Cola Company* agreed to divest Doric Foods, a leading competitor in the chilled fruit drink market. Finally, *Gulf & Western Industries* undertook to sell its Alabama manufacturing facility for burial caskets to settle charges that its acquisition of two other manufacturers would reduce competition in casket markets.

ORDER MODIFICATIONS

Responding to the *FTC Improvements Act of 1980*, which emphasized the importance of modifying Commission orders when required by circumstances or the public interest, the agency modified 17 of its prior orders during 1983. The modifications fell into three major categories:

- Nine orders involving non-price vertical restraints were modified to reflect changes in the caselaw which have followed from the Supreme Court's 1977 holding in *GTE Sylvania* that *per se* analysis was inappropriate for such restraints.
- Four orders imposing bans on mergers and acquisitions without Commission approval were modified to recognize changes in industry structure over time.
- Two orders imposing notification requirements were modified to permit less burdensome alternatives.

In addition, the duration of an order resulting from charges of reciprocal dealing was limited to 10 years, and an order in a monopolization case was modified to ease restrictions on advertising and promotion.

COMPETITION ADVOCACY

Working with the Bureaus of Consumer Protection and Economics, the Bureau of Competition engaged in advocacy or prepared Commission presentations before Congress and government agencies in selected circumstances. These activities were calculated to achieve the same goals as the Bureau's enforcement actions—ensuring that consumers enjoy the benefits of a competitive marketplace. Indeed, most of these "interventions" were done either at Congressional request, or as an outgrowth of an investigation to see whether particular practices violated Section 5 of the FTC Act.

The Commission and its staff intervened in several proceedings before the Interstate Commerce Commission to urge reliance on competitive markets rather than regulation. *In ICC Ex Parte No. 346*, Bureau of Competition staff argued in favor of deregulation of boxcar traffic, and in *Ex Parte MC-165*, the Commission staff urged easing of administrative entry barriers for contract trucking.

The agency was also active in competition advocacy concerning other transportation markets. In testimony before the Subcommittee on Monopolies and Commercial Law of the House Judiciary Committee, Chairman Miller addressed anticompetitive conduct by shipping conferences permitted by the *Shipping Act of 1982*. Chairman Miller also testified before the Aviation Subcommittee of the House Committee on Public Works and Transportation, on behalf of the Commission, oppos-

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ing adoption of the *Air Travelers Security Act of 1983*, a bill that would have allowed the airline and travel agent industries to limit certain types of marketing arrangements in the sale of air travel.

Several comments were filed in international trade proceedings. A brief filed with the International Trade Commission in *Certain Softwood Lumber Products* took the position that stumpage fees charged to lumber companies by the Canadian government were not so low as to constitute a subsidy for the purposes of a countervailing duty petition. In a dumping case, the Commission filed a brief concerning the definition of the boundaries of the domestic *Color Television* market for the purposes of determining injury to domestic producers. In the Court of International Trade, the Commission filed a brief as *amicus curiae* concerning alleged subsidies of *Carbon Steel* imports by foreign governments. Finally, the Bureau also offered comments to a variety of state and Federal entities concerning developments in health, communications, energy and securities markets.

CONSUMER PROTECTION MISSION

The mission of the Bureau of Consumer Protection is to eliminate unfair or deceptive acts or practices in or affecting commerce, with emphasis on those practices that may unreasonably restrict or inhibit the free exercise of consumer choice. The Bureau emphasizes market-oriented remedies for law violations. Its activities can be grouped into five program areas: Advertising Practices; Credit Practices; Service Industry Practices; Marketing Practices; and Enforcement. In addition, the Bureau has a Policy and Evaluation Unit, and an Office of Consumer and Business Education.

ADVERTISING PRACTICES

The Advertising Practices program focuses on the elimination of false, deceptive, or unfair advertising.

During fiscal year 1983, the Commission obtained several final consent agreements concerning advertising. The *Meredith Corporation*, which operates the Better Homes and Gardens Real Estate Service, agreed not to make false advertising claims about how it selects its local real estate franchise concerns and about the services they offer. The *North American Philips Corporation*, and *McCaffrey and McCall, Inc.*, its advertising agency, agreed not to make curative claims regarding razor bumps for the "Black Pro" razor without adequate scientific evidence. Two companies, *Heatcool* and *Plaskolite, Inc.*, agreed not to make false advertising claims about their storm windows. *Stihl, Inc.* and its ad agency, *Stuart Ford, Inc.* agreed not to advertise contrary to fact that Stihl chain saws are the fastest-starting and smoothest-running. *Champion Home Builders Company* agreed to pay cash settlements totalling up to $550,000 to consumers and dealers who purchased its allegedly defective residential solar furnaces

and collectors, to warn customers about potential fire hazards, and not to misrepresent the furnace's performance capabilities. *Amana Refrigeration, Inc.* will not claim that only its microwave ovens passed independent laboratory tests conducted in 1980, and that its ovens were rated "best quality" in a 1980 consumer survey.

The Commission issued two parallel final decisions prohibiting the *Bristol-Myers Company* and *Sterling Drug, Inc.* from making advertising claims that their non-prescription pain relievers have been proved safer or more effective than similar products without well-controlled clinical tests to back up their claims. The decisions also cover *Ted Bates & Co.* and *Young & Rubicam, Inc.*, the advertising agencies involved.

Two Administrative Law Judge initial decisions were released. *Cliffdale Associates* was prohibited from falsely advertising that its "Ball-Matic Valve" could cut gasoline consumption by 20% or more. The *Thompson Medical Company* was prohibited from employing the brand name "Aspercreme" unless it clearly discloses that the product does not contain aspirin.

The Commission issued an administrative complaint and filed for a preliminary injunction against *PharmTech Research, Inc.* challenging advertisements claiming the diet supplement "Daily Greens" reduces the chances of cancer. The Commission also issued an administrative complaint against *Rush-Hampton Industries, Inc.*, charging the manufacturer of the "Ecologizer CA/90" with falsely advertising the performance capabilities of its air cleaning device.

Braswell, Inc. agreed to pay $610,000 in civil penalties for allegedly misrepresenting that its products or services would cure or prevent hereditary baldness. Under the consent judgment, Braswell is enjoined permanently from such misrepresentations.

The *Food Advertising Rulemaking* proceeding was terminated during fiscal year 1983. The Commission found the evidence in the record did not show widespread deception, or prove that the benefits of the proposed rule would exceed the costs. Related issues will be handled on a case-by-case basis.

The Commission released a staff report on its proposed rule for *over-the-counter antacid advertisements*. The FTC is asking for public comment on the staff report and the previously released Presiding Officer's report.

The annual report on *Cigarette Labeling and Advertising* and the test results for the tar, nicotine and carbon monoxide content of 208 varieties of domestic cigarettes were published. In another cigarette-related action, a complaint against *Brown & Williamson Tobacco Corp.* was filed seeking to permanently enjoin the company from claiming that "Barclay" cigarettes deliver only 1 mg. tar.

Several previously existing orders in the advertising area have been modified during fiscal year 1983. The Commission modified a consent

order against *H&R Block, Inc.* to conform with Internal Revenue Service regulations. A 1974 order was modified to state that new evidence suggests that "Lysol" may have more of an impact on colds and germs than previously thought, and that *Sterling Drug, Inc.*, the manufacturer, can make advertising claims for which there is a reasonable basis. The Commission modified an order against *American Home Products* that had prohibited the maker of "Anacin" and "Arthritis Pain Formula" from making any non-comparative effectiveness or side-effects claims about the products without a reasonable basis. The change was required by order of the United States Court of Appeals for the Third Circuit, which affirmed the Commission's order in all other respects.

CREDIT PRACTICES

The Credit Practices program carries out legislative solutions to problems in the consumer credit market.

The Commission obtained three final consents for alleged violations of the Fair Credit Reporting Act (FCRA). *Trans Union Credit Information Corp.*, one of the nation's largest computerized consumer credit reporting agencies, agreed to take a number of steps to comply with FCRA, including improving the accuracy of its credit reports. The *Southern Maryland Credit Bureau, Inc.* will tighten its procedures for furnishing credit reports. The *Medical Information Bureau, Inc.*, which maintains files on some 12 million Americans, consented to allow consumers to dispute items in their files more easily and to take additional steps to assure compliance with the FCRA.

Actions brought under the Equal Credit Opportunity Act (ECOA) include a complaint filed in U.S. District Court against *Allied Stores Corporation*, one of the nation's largest department store chains. The complaint seeks civil penalties and would require Allied to send corrective notices to applicants who were denied credit and did not receive sufficient explanatory information. In the Commission's first age discrimination case under ECOA, *Aristar, Inc.* agreed to pay $90,000 in civil penalties to settle allegations that it had violated the law. Finally, the Commission filed a complaint in U.S. District Court alleging that *ITT Consumer Financial Services* had engaged in marital status discrimination through its requirements in community property states.

The Commission obtained civil penalties in a number of Fair Debt Collection Practices Act (FDCPA) actions. FDCPA actions against four debt-collection companies, *The Consumer Finance Company*, the *Iowa Credit Syndicate of Ft. Dodge, Inc.*, *Cash Flow, Inc.*, and the *Utah Bureau of Collections*, netted a total of $116,500 in civil penalties. *Milton Shaffner* agreed to pay $5,000 in civil penalties and to have his employees obey the FDCPA. This consent judgment settled the Commission's first case involv-

ing a debt collection agency owned and operated by an attorney, signalling that others with similar operations may not qualify for the attorney exemption in the FDCPA. In another FDCPA enforcement action, the Commission was granted a permanent injunction to stop the *Bureau of Collections* from using illegal practices in collecting debts for creditors.

Three matters under the Truth-in-Lending Act (TILA) were completed. *Hofmann Construction Company*, a home builder, agreed to pay $62,500 in civil penalties to settle charges that it violated a 1973 consent decree. The *Chicago Metropolitan Pontiac Dealers Association*, and its advertising agency, the *Competitive Edge*, have agreed to display credit terms in their television ads for at least five seconds, giving consumers enough time to read them.

An Administrative Law Judge upheld Commission charges that *Rentacolor, Inc.* violated consumer leasing laws by failing to provide complete disclosures in advertisements and lease contracts. This is the first Commission action brought under the Consumer Leasing Act.

The Commission tentatively adopted certain provisions for a *Credit Practices Rule*. The rule would eliminate five consumer credit contract provisions (creditor remedies) found to be commonly included in credit contracts and which cause substantial economic injury to consumers.

The Commission modified various orders in credit-related matters during fiscal 1983. A 1974 consent order with *G C Services Corp.* was modified to conform to the provisions of the Fair Debt Collection Practices Act. An order against *Fred Meyer, Inc.*, a discount retailer, was modified to allow longer time periods for customers to settle their layaway accounts.

MARKETING PRACTICES

The Marketing Practices program takes enforcement action against companies believed to be using unfair, deceptive or fraudulent practices at the point of sale.

The Commission charged that *BayleySuit, Inc.* knew about but had not recalled 6,000 survival suits that had life-threatening defects. In the consent agreement, the company agreed to use its best efforts to contact all users of the affected cold water immersion survival suits, and to send a free repair kit to them upon request.

The Commission issued a complaint against *Figgie International, Inc.* alleging that "Vanguard" heat detectors do not provide sufficient warning in the event of fire to allow occupants of a house to escape safely.

National Transportation Consultants, Inc., and five individuals agreed to permanent injunctions against misrepresenting their services. Among other practices, the Commission charged that their "Help Wanted" ads were attempts to induce customers to spend $2,000 for truck driver training and counseling services.

The Commission sought to permanently enjoin *Kitco of Nevada, Inc.* from unfair or deceptive practices in the marketing and sale of the "Kitco business opportunity". A U.S. District Court issued a preliminary injunction in June, 1983. The Commission alleged that Kitco, when selling machines for making plastic items, misrepresented potential earnings.

Jim Clark's Beef, Inc., agreed to pay $10,000 in civil penalties to settle charges that the company used "bait and switch" tactics to sell their beef products.

A federal judge found James R. Quincy, a top official of the *Paradise Palms Vacation Club*, in contempt of court and ordered him to stay out of the time-share business. Quincy was assessed $15,000 for legal fees in the Commission's action against him.

The Commission issued two order modifications in the marketing practices area during fiscal 1983. An order governing the sales practices and recruitment policies of *Encyclopaedia Britannica, Inc.* was modified. A consent order with *Success Motivation, Inc.* was modified to provide prospective franchisees and distributors with more information on sales data and success and failure rates, so that they may better evaluate their chances for success.

SERVICE INDUSTRY PRACTICES

The Service Industry Practices program deals with unfair, deceptive or anticompetitive practices in the service industries.

Numerous civil actions were filed concerning the $200 million-a-year industry that provides filing services for investors who want to lease oil and gas rights on federal land. A complaint against the *U.S. Oil and Gas Corp.*, the *Eagle Oil and Gas Corp.*, and the *Stratford Company*, alleged that they used false and deceptive practices in the sale of oil and gas lottery filing services. The Commission sought an injunction barring *Leland Industries* from falsely claiming that customers will obtain "highly valuable" leases, and a refund of money that customers have lost. The Commission obtained a stipulated preliminary injunction barring *J&R Marketing Corp.* from misrepresenting its success in obtaining gas or oil lease rights for its customers, or the number of competing applications for lease rights. The Commission obtained an order in U.S. District Court against *First Petroleum of America, Inc.* requiring the company to pay $125,000 into a redress fund for customers who were misled by the company.

The Commission filed a complaint in U.S. District Court against the *Kimberly International Gem Corp.* seeking a permanent injunction and consumer redress for alleged misrepresentation of the value of the colored gemstones it sells for investment, and the risks involved. A preliminary injunction was obtained in September, 1983.

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During fiscal 1983, the staff and Presiding Officer's reports were published on the *Standards and Certification Rulemaking* proceeding. These reports were then subject to a 90-day public comment period ending September 6, 1983, followed by a 45 day rebuttal period. In addition, the rulemaking record was open during the comment period to receive evidence on current complaint processing by standards organizations to determine whether circumstances have changed since the record was closed early in 1980.

ENFORCEMENT

The Enforcement program monitors compliance with Commission orders for the Bureau of Consumer Protection, handles all order modifications for the Bureau and is responsible for the implementation and enforcement of most Commission rules. A number of actions related to trade regulation rules and FTC-enforced statutes were taken during fiscal 1983.

The Commission set January 1, 1984, as the effective date for those portions of the *Funeral Practices Rule* pertaining to misrepresentations. The effective date for portions relating to the itemized price list and required disclosures is set for April 30, 1984. The Funeral Rule would assure funeral purchasers full price information before purchase, and it would prohibit funeral directors from numerous kinds of misrepresentations.

The Commission published in a Federal Register notice amendments to its *Care Labeling Rule*. The amendments will require care labels on apparel to carry more detailed washing, drying and dry cleaning instructions.

The Commission published an Advanced Notice of Proposed Rulemaking on the *Games of Chance Rule*. The notice indicated that the Commission is considering amendments to the rule that would reduce requirements involving recordkeeping and broadcast advertising disclosures. In addition, the notice invited the public to make recommendations for amendments to any other areas of the rule.

The Commission sought comments on whether to amend the *Hobby Protection Act* rules affecting imitation coins, because some coins on the market now are nearly as small as the word "COPY" they are required to bear under present regulations.

The Commission reviewed its *Door-to-Door Sales Rule* and asked for comments in two Federal Register notices. One notice solicited information on how the rule has affected small businesses. The other notice contained a request for comment on two studies prepared by the FTC that evaluate the rule's effects on industry and consumers.

The Commission also sought comments on amending the *Wool Products Labeling Act*. The proposed change would allow manufacturers to disclose the average amount of wool, instead of the minimum amount of wool, in wool blend fabrics.

In fiscal year 1983, the Consumer Protection Mission obtained $1,209,200 in civil penalties for violations of previously issued orders on Commission rules.

The Commission obtained a number of civil penalties in the enforcement area. Filed in the U.S. District Court, *Standard Educators, Inc.* was permanently enjoined from using false and deceptive claims in selling its New Standard Encyclopedia and other books, and will pay $25,000 in civil penalties for violating a 1971 consent order. *Pacific Coast Manufacturing Co., Inc.* agreed to pay $15,000 in civil penalties to settle charges that it violated the R-Value Rule by overstating the effectiveness of one of its products and misrepresenting its fire safety characteristics. *Li'l Peach of Massachusetts, Inc.* agreed to pay a $10,000 civil penalty to settle charges that it made earnings claims for its convenience store franchises without making the necessary disclosures required by the Franchise Rule. *The Video Station Inc.* agreed to pay $55,000 in civil penalties to settle charges that it did not comply with the Franchise Rule. *Super Market Media*, a mail-order firm, and owner *Nathan Peleg*, agreed to ship approximately 65,000 prepaid packages of merchandise and pay a $10,000 civil penalty in response to a Commission complaint charging them with failure to inform customers of their rights under the Mail Order Rule. *Thermtron Products, Inc.* agreed to a $42,500 civil penalty consent decree for alleged violations of the R-Value Rule. The company is permanently prohibited from using testing procedures not specified by the rule, failing to label insulation packages as required by the rule, and failing to provide retailers and installers fact sheets on R-values. *Allied Publishers Service* agreed to a $140,000 civil penalty consent decree for allegedly violating a 1972 Commission order and the Door-to-Door Sales Rule. The Commission obtained a permanent injunction and a civil penalty of $15,000 against the *Union Circulation Company* for alleged violations of the Cooling Off Rule.

Several civil actions have been filed by the Enforcement program. In a complaint filed in federal court the Commission charged that *Northern Feather International Inc.*, mislabeled the down and feather content of its pillows and comforters, in violation of a 1956 order. The complaint asks for civil penalties and an injunction. In U.S. District Court the Commission is seeking restitution from *Ferrara Foods, Inc.* for investors' losses and a permanent injunction against challenged practices. A preliminary injunction was obtained in April, 1983. The Commission is seeking civil penalties in a complaint filed in U.S District Court against *Leisure Time Electronics, Inc.* for failure to comply with the disclosure requirements of the Franchise Rule.

In compliance with a federal appeals court ruling the Commission modified an order against *Equifax, Inc.* to eliminate prohibitions against the company's evaluating and rewarding its employees by the amount of adverse information they gather on consumers. Under a modified order,

Reader's Digest Assn. may now use "simulated checks" and is no longer prohibited from claiming contestants are "lucky" or have been "especially selected" to win a prize. A negotiated settlement between the Commission and *The Kroger Company* resulted in a 1981 Commission order being modified to allow the company to conditionally use survey-based, comparison price advertisements.

POLICY AND EVALUATION

In addition to its cases, rulemakings, and other activities to remedy problems arising in the market, the Commission has traditionally been active in providing analytical support and expert opinion to other government agencies. Various Commission fiscal 1983 filings and testimony, in which the Bureau of Consumer Protection played a major role, are represented below.

The Commission contributed comments in response to a request from the *Interstate Commerce Commission*. The comments urged the adoption of a proposal that would allow contract truck companies to apply for operating authority to serve a broad class of shippers.

Comments were submitted to the *Postal Rate Commission* analyzing two competitive issues relevant to the Postal Service's request for a rate increase. A separate set of comments urged denial of the Postal Service request that it be allowed to set a rate for its electronic mail service that would cause the service to operate at a net loss until 1987.

Comments were presented to the *Board of Licensing Health Care Facilities of the State of Tennessee*. They discuss the role of the FTC in both the public and private sectors to remove obstacles hindering competition among licensed health care providers practicing within the requirements of Tennessee state law.

The Commission continued to assess the economic effects of its activities through various studies coordinated by the Impact Evaluation Unit. These studies assist in enabling the Commission to adjust its plans and enforcement activities to maximize consumer and business benefit at the least cost to all parties involved.

Among the studies completed in fiscal 1983 was a follow-up impact study of the Commission's R-Value Insulation Rule. This survey of a national sample of consumers measured the extent of knowledge about and use of the R-value information provided as a result of the rule. The results will be compared to the baseline study (completed in 1980) to measure the impact of the rule.

A follow-up impact study on the Appliance Energy Labeling Rule was also completed this fiscal year. This study replicated the Appliance Energy Labeling baseline study conducted in 1979. A national sample of consumers was surveyed to measure the extent of knowledge and use of energy infor-

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mation provided as a result of the rule in appliance purchases. The results will be compared to the baseline study to evaluate the impact of the rule.

OFFICE OF CONSUMER AND BUSINESS EDUCATION

The Office of Consumer and Business Education coordinates an education program aimed at providing information to consumers and industry on major Commission decisions, programs, statutes, and rules. This allows informed choices and competitive business practices to function freely in the marketplace. Thus, the consumer and business education program is a cost-effective way of obtaining compliance with the law.

In fiscal year 1983 a television public service campaign on creative home financing was aired. In response to this campaign, the Commission distributed more than 300,000 copies of the "Mortgage Money Guide" booklet it produced for consumers.

Other consumer and business education activities included the publication of various brochures, booklets, and fact sheets. A booklet entitled "How to Write a Wrong" was produced in connection with the American Association of Retired People. The Commission produced eight "Facts for Consumers" on topics including contest cons, car advertisements, and gemstone frauds. The Commission produced materials for business on the Mail Order Rule, and "Writing a Readable Warranty".

ECONOMIC ACTIVITIES

The FTC's Bureau of Economics has three main responsibilities: to provide economic support to the agency's antitrust and consumer protection activities; to advise the Commission about the impact of government regulation on competition; and to gather and analyze information on the American economy.

The primary mission of the FTC is to enforce the antitrust and consumer protection laws. In 1983, the Bureau of Economics continued to provide guidance and support to those activities. As has been the case in the past, the bulk of Bureau of Economic's resources was committed to support for and analysis of investigations, litigation, and rulemaking. In the antitrust area, economists developed investigation plans, carried out investigations, collected data and evidence, and offered advice on the economic merits of potential antitrust actions. The primary objective was to distinguish situations where the marketplace performed well from situations where consumer welfare might be augmented by Commission action, and to advise on appropriate actions. Commission antitrust economists devoted considerable effort to increasing the availability and economic evidence at all levels of antitrust enforcement activities. When

enforcement actions were initiated, economists worked to integrate economic analysis into the proceeding and to devise remedies that would facilitate competition. Staff economists also testified in cases. In a role that is still somewhat new, economists who were not involved in the investigation or prosecution of cases also provided advice to the Commissioners in matters at the adjudication stage.

In the consumer protection area, economists provided estimates of the benefits and costs of alternative policy approaches. Potential consumer protection actions were evaluated not only for their immediate impact, but also for their longer run effects on price, product quality and product variety. Bureau economists provided internal advice on the competitive impact of various regulations and proposed trade rules. Using expertise derived from studies of various industries and trade practices, economists helped to evaluate cases in credit practices, advertising, product defects, warranties, and a wide variety of other consumer protection issues. Working with the staff of the impact evaluation group, economists helped design and carry out survey research aimed at determining the effects of various FTC initiatives and policies. Finally, economists analyzed and contributed to proposed policy protocols in several areas, including product defects.

Although the FTC is primarily a law enforcement agency, it also collects, analyzes, and publishes information about the nation's business firms. Much of this work is undertaken by the Bureau of Economics. In 1983, economists conducted a number of studies on a broad array of topics in antitrust, consumer protection, and regulation.

In the antitrust area, economists completed reports on vertical restraints, market definition, and persistence of high profits in particular markets over long periods. In addition, economists began or continued work on resale price maintenance, for-profit hospitals, the effects of antitrust remedies in experimental markets, competitive effects of various auction mechanisms, and incentives for oligopolistic behavior in the steel industry. Finally, numerous research projects using the Commission's Line of Business data were initiated, and a large number of papers were released; economists also completed an extensive analysis of the benefits and costs of the Line of Business program.

In the consumer protection area, work continued on studies of the effects of state drug substitution laws, the impact of advertising restrictions on the prices of legal services, consumer opinions of automobile reliability, the effects of the FTC's Franchise Rule on advertising, and the effects of information scarcity in experimental markets. New study topics during 1983 included the role of information in the markets for auto insurance and life insurance.

In the regulation area, economists continued to participate in a program of commenting on the competitive effects of various regulatory activities. Examples of this work include: publication of a study estimating

the costs imposed on air travelers by the FAA policy of allocating airport landing rights administratively rather than through a market; testimony before the House Subcommittee on Monopolies and Commerical Law, opposing antitrust immunity for ocean liner companies; comments filed with the Virginia Deputy Health Commissioner opposing entry restrictions on home health care providers; comments to the House Committee on Energy and Commerce opposing a bill requiring auto manufacturers to include a minimum domestic parts content in their autos and light trucks; testimony before the Motor Carrier Ratemaking Study Commission in favor of removing antitrust immunity for trucking rate bureaus that establish rates for intercity buses; and testimony before the Senate Subcommittee on Surface Transportation in favor of regulatory reform. Other activities included analyses of competitive issues involving motor contract carriers, network cable crossownership, ownership and syndication rights to television programming, lumber exports from Canada, discounting of sales charges in the selling of mutual funds, and the Postal Service's E-COM service.

Several ongoing study projects in the Bureau cut across the various FTC missions. Current research included topics such as antitrust analysis of research and development joint ventures, regulations that restrict the adoption of certain inventory valuation methods, the effects of retail milk price regulation by states, securities regulation, building codes and innovation, certificate-of-need regulation, and economic analysis of the "sports market."

THE REGIONAL OFFICES

During fiscal 1983, the Commission, with the concurrence of the Appropriation committees of the House and Senate, restructured the regional offices. Under the new plan, all of the Commission's ten regional offices have been reduced to more efficient sizes, and most of the offices have had new management appointed. It is believed that this restructuring will enable the regional offices, as well as the Commission, to more efficiently utilize available resources and to carry out those law enforcement activities best suited to the economic conditions of their areas.

The regional offices made significant contributions to the Commission's law enforcement efforts. They were responsible for handling some of the more significant litigation and for achieving some of the more important settlements during this fiscal year. In addition, the regional offices handled tens of thousands of inquiries and complai from consumers, businesses, and members of Congress. These offices provided important law enforcement guidance and education to members of the public, small business associations, and local groups of numerous types.

EXECUTIVE DIRECTION, ADMINISTRATION AND MANAGEMENT

The Office of the Executive Director is the primary management organization of the FTC which implements the policies and decisions of the Commission. The Executive Director is responsible for providing overall administrative support for agency functions and organizations through a series of organizations such as Personnel, Budget and Finance, Data Processing, etc. In addition, the office has primary responsibility for the agency's regional operations, which consist of 10 offices and one field station located throughout the U.S.

Fiscal 1983 was a year of declining resources, both in terms of dollars and workyears available to the agency. The major management activities in fiscal 1983 were resource management and the implementation of a regional office restructuring plan.

Resource management activities included numerous contingency plans based on alternative resource levels likely to be made available by Congress. In addition, a hiring limitation was in effect for the entire year and major efforts were taken to analyze and manage skills mix and grade levels in all organizations. An active cost reduction program was undertaken that realized savings in the long term of approximately $2 million.

The reorganization undertaken the previous year was implemented with progress made towards the goal of more efficient information resource-management. An additional computer for in-house operation was procured along with related equipment to reduce costs and improve performance. A text-processing standardization decision was made and implemented that increases staff productivity.

An employee relations and development organization was created within the Division of Personnel to more fully utilize the human capital of the agency by linking performance, pay incentives, discipline and good management.

The agency utilized approximately 1,315 workyears and spent $66.7 million or $.1 million less than was appropriated and $2.1 million less than fiscal 1982.

The Regional Office restructuring plan was implemented after Congressional consultations in March, 1983. Regional Offices were reduced to 18 workyears in most cases and those displaced were offered jobs in headquarters organizations. A program of revitalization of the regional network was undertaken and many of the vacant regional director positions were filled.

Progress was made during the year toward the goals of improving agency administration and management, effectively managing declining resources and maintaining an effective and efficient regional network.

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APPENDIX

PART II (Investigative Stage)
CONSENT AGREEMENTS ACCEPTED AND PUBLISHED FOR PUBLIC COMMENT

COMPETITION MISSION

Great Dane Distributors Council

Great Dane Distributors Council, an association composed of dealers of Great Dane Trailers Inc., agreed not to impose territorial or customer restrictions among its members. Under a separate agreement, Great Dane Trailers Inc., a major truck manufacturer, is prohibited from supporting the dealers charged with restraining competition among themselves. The consent agreement forbids the dealers' association from discouraging member dealers from selling outside a specified area or to prescribed customers, and Great Dane Trailers is prohibited from supporting efforts of the dealers' association to limit competition through agreements that restrict sales to preassigned territories or customers.

The Washington, D.C. Dermatological Society

The Washington, D.C. Dermatological Society agreed not to interfere with dermatologists' truthful advertising. The complaint alleged that the Society's restrictions deprived consumers of information and constituted a conspiracy to restrain competition. The complaint also alleged that the group threatened to deny membership to any physician associated with a health care delivery organization that advertised the identity, fees or services of an affiliated doctor. Under the agreement, the Society is prohibited from restricting truthful advertising of prices, services or facilities, but is permitted to adopt and enforce reasonable ethical guidelines governing false and deceptive advertising.

Dillon Companies, Inc.

A Kansas based grocery retailer, Dillon Companies Inc., was prohibited from interfering with any independent firm's collection and publication of comparative price surveys based on items checked in Dillon grocery stores. The complaint alleged that Dillon agreed with other area

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grocers to bar a survey firm's price checkers from their stores. It is also alleged that Dillon also tried to force the survey firm to buy the items it checked. The complaint charged that the alleged group boycott suppressed price competition among grocers in the Springfield, Missouri area, and deprived consumers of the advantages of price information. Under the order, Dillon is prohibited from impeding the gathering of price data and must take steps to restore competition by using price surveys in the Springfield area.

CONSUMER PROTECTION MISSION

Avco Financial Services, Inc.

Avco Financial Services, a debt collection agency, agreed not to use profanity, harassment, physical harm threats, legal process threats, embarrassment, and defamation to obtain payments. Avco also will not contact employers, friends, and relatives of debtors unless the debtor permits. It will inform debtors of their rights to prevent harassment and establish a toll free phone line to receive and record consumer complaints.

Lomas & Nettleton Co. of Virginia Beach, et al.

Lomas & Nettleton agreed to maintain procedures to ensure prompt payment of obligations due from homeowners' escrow accounts. The agreement settles charges that the company in numerous instances failed to pay hazard insurance premiums on time from homeowners' escrow accounts.

Emergency Devices, Inc., et al.

Emergency Devices agreed not to make false performance and endorsement claims in the marketing of "Extra Margin" emergency escape masks. The company agreed not to claim that the product provides protection from carbon monoxide, allows "filtered breathing" for 20 minutes or more, and has government approval.

Monte Proulx

The principal of *Emergency Devices, Inc.* agreed to abide by the provisions of the consent agreement described above.

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Estee Corporation

Estee Corporation, a leading manufacturer of health-related specialty foods, agreed not to advertise that its foods are healthful or appropriate for diabetics' diets without adequate substantiation. The company will also pay $25,000 in consumer redress in the form of research grants to the American Diabetes Association or the Juvenile Diabetes Foundation.

Lloyd's Furs, Inc.

Lloyd's Furs, Inc. agreed not to represent a garment as the product of a particular designer or manufacturer, unless the representation is factual. The agreement settles charges that the company attached designer or manufacturer labels to some garments it sold without regard to who the actual designer or manufacturer was.

Macy's New York, Inc.

Macy's agreed to change its credit billing practices and to set up a program to educate its employees who either establish credit billing procedures or handle notification of billing errors. The company allegedly began collection procedures before disputes were settled. It also agreed to distribute $225,000 in consumer redress among credit card customers who disputed their bills during 1977 and 1978.

American Express Company

The American Express Company agreed to comply with the provision of the Fair Credit Billing Act. Under the agreement, American Express will not dun credit card customers for contested amounts until the dispute is resolved. In addition, the order requires American Express to resolve alleged billing errors involving foreign purchases within a specified time period.

Christian Services International, Inc.

Christian Services International, Inc., a life-care home developer, marketer, and operator, agreed not to misrepresent, among other things, that some of the life care homes are affiliated with a religious organization, and that membership involves little or no financial risk. Alleged factual omissions include that subcontracting is channeled to affiliates of the company thus eliminating the benefits of competitive bidding, and that current litigation could materially affect its ability to perform under the contract. The proposed consent order terminates the alleged

misrepresentations and mandates a disclosure of material facts at least five days before a contract may be signed with a prospective member.

Spinal Health Services, Inc., et al.

Spinal Health Services uses a "cold laser" to perform non-surgical face lifts. It agreed not to claim that the "cold laser" treatments are effective for improving appearance by removing lines, depressions, and wrinkles unless it has scientific proof.

Laser Toning Center, Inc., et al.

Laser Toning Center was changed with the same deceptive acts in advertisements of "cold laser" face lifts as Spinal Health Services, Inc. It also signed a consent order agreeing not to make unsubstantiated claims.

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PART II (Investigative Stage)
CONSENT AGREEMENTS ISSUED IN FINAL FORM

COMPETITION MISSION

Association of Independent Dentists

The Association of Independent Dentists (AID), a group of dentists practicing in Pueblo County, Colorado, agreed not to interfere with its members' efforts to compete for business through advertising. Under the terms of the consent agreement, the Association is prohibited from attempting to influence insurance company reimbursement rates to Association members. In addition, the Association is required to provide each member with a copy of the Order and a letter specifying the changes to the bylaws; new members must be supplied with a copy of the order.

Germaine Monteil Cosmetiques Corporation

Germaine Monteil agreed not to fix the resale prices of its products. The Commission charged that Germaine Monteil, a leading manufacturer of prestige cosmetics and fragrances, established and maintained the resale prices at which retailers advertised and sold its products. The order prohibits the suggestion or recommendation of resale prices for two years and prohibits Germaine Monteil from retaliating against retailers because of their pricing decision.

Batus, Inc.

Batus, Inc. agreed to divest one of its retail department stores in the Milwaukee, Wisconsin area to an acquiror approved by the FTC. The complaint accompanying the consent agreement alleged that the acquisition of a Marshall Field & Co. department store violated the antitrust laws because it eliminated competition between the two retailers, discouraged possible market entrants, and reduced competition in the already highly concentrated area of Milwaukee, Wisconsin. To comply with the order, within two years after the divestiture, Batus must open or begin construction, in the Milwaukee area, of another Marshall Field department store to preserve a wider variety of consumer choices by ensuring Marshall Field's continued presence in the market. In addition, the agreement restricts Batus' future acquisitions of department stores.

Canada Cement Lafarge Ltd.

Canada Cement Lafarge Ltd., a major cement manufacturer, agreed to divest one of its cement plants within eighteen months. The complaint prepared as part of the consent alleges that Canada Cement Lafarge's acquisition of General Portland Inc., which is also engaged in the production of cement, decreased competition in the southeastern U.S. by combining two direct competitors in violation of the antitrust laws. The consent order requires CCL to offer the plant's acquiror the opportunity to purchase distribution terminals and land over the next five years.

ConAgra, Inc.

Under the terms of a consent agreement, ConAgra, Inc., a major manufacturer and distributor of bakery flour, agreed to divest several production and distribution facilities in the western United States within fifteen months. The complaint accompanying the consent agreement alleged that ConAgra's acquisition of Peavey Co. eliminated competition in the manufacture and sale of bakery flour between the two companies, and raised entry barriers in a concentrated market. The consent agreement prohibits future acquisitions of assets or any other interest in any flour milling plant located in the western United States for ten years.

Allied Corporation

Allied Corporation, a leading supplier of chemicals to the electronics industry, agreed to divest its Hi-Pure Chemicals Inc. subsidiary within 15 months to a Commission approved purchaser. The complaint alleged that the acquisition of Hi-Pure's parent, Fischer Scientific Company, lessened competition and increased concentration in three high-purity acid markets:high-purity nitric, hydrochloric and hydrofluoric. Under the agreement, Allied must give Hi-Pure's purchaser a ten-year royalty free license to its patents relating to manufacturing and packaging of high-purity acids used in the semiconductor industry and in laboratories. In addition, Allied is prohibited from acquiring any interest or assets of a high-purity acid maker for a period of 10 years.

Michigan Association of Osteopathic Physicians and Surgeons

The Michigan Association of Osteopathic Physicians and Surgeons agreed not to impose restrictions on truthful advertising advertising and patient solicitation by its members. The complaint alleged that the association threatened to take disciplinary actions against members who

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advertised or solicited patients, and tried to prohibit certain advertising media from accepting ads. The consent agreement did not affect the Association's enforcement of its ethical guidelines governing deceptive advertising or members' conduct, but required the Association to inform all current and future members that truthful advertising is permitted.

The Coca-Cola Company

The Coca-Cola Company agreed to divest its Doric Foods Corporation subsidiary to settle antitrust charges. Doric Foods was acquired in 1982 when Coca-Cola acquired its parent, Associated Coca-Cola Bottling Co., Inc. Prior to the acquisition, the Coca- Cola Company and Doric were the two leading competitors in the chilled fruit drink business. The complaint charged that the acquisition would lessen competition. Under the agreement, Coca-Cola was required to divest Doric within one year to a purchaser approved by the Commission, and for ten years to obtain Commission approval before acquiring a chilled fruit drink manufacturer.

State Volunteer Mutual Insurance Co., Inc.

State Volunteer Mutual Insurance Co., Inc., a physician-owned medical malpractice insurance company, agreed not to discriminate against physicians who supervise self-employed nurse-midwives. The complaint accompanying the consent agreement alleged that State Volunteer's cancellation of the malpractice insurance of physicians who provided medical supervision to independent nurse-midwives constituted a boycott under the antitrust laws. Under the agreement, State Volunteer was prohibited from using discriminatory underwriting criteria against physicians affiliated with nurse-midwives and required to provide certain procedural safeguards to physicians whose insurance is terminated.

CONSUMER PROTECTION MISSION

North American Phillips Corporation, et al.

The North American Phillips Corporation agreed not to claim that the "Black Pro" shaver will eliminate or effectively treat razor bumps, unless it has reliable scientific evidence to substantiate the claims.

Meredith Corporation

The Meredith Corporation agreed to an order prohibiting it from using false and misleading information in its representations concerning

the training and quality of its member real estate agents, the existence and exclusivity of certain services, and the degree of screening each prospective agent must undergo. In addition, such claims must be supported by competent and reliable evidence.

Southern Maryland Credit Bureau, Inc.

The Southern Maryland Credit Bureau, Inc. agreed to obtain the substantiation required by the Fair Credit Reporting Act from subscribers and inform them of federal penalties for obtaining credit information under false pretenses. Under the terms of the agreement, it will take reasonable efforts to verify the identity of and the uses certified by each new subscriber prior to furnishing consumer reports to the subscriber.

Heatcool Corporation

The Heatcool Corporation agreed not to make misrepresentations and not to perform specific deceptive and false comparative demonstrations in advertisements concerning the insulating ability and R-Value of its storm windows.

Plaskolite, Inc.

Plaskolite, Inc. agreed to an order prohibiting it from making false and misleading advertising claims in the marketing of its storm windows. The alleged misrepresentations indicated substantial reductions in heat loss and substantial savings from the use of its products. The company agreed to have reliable test results or other reliable objective materials to substantiate its claims.

Medical Information Bureau, Inc.

The Medical Information Bureau agreed to an order prohibiting practices in violation of the Fair Credit Reporting Act. The alleged violations included reporting to members the prior deletion of material from a consumer's file, requiring consumers to sign exculpatory waivers for the corporation and its members before releasing information from the consumer's own files to them, and inadequate reinvestigation of disputed information.

Competitive Edge, Inc.

The Competitive Edge, Inc. agreed to comply with the Truth in Lending Act and not to create, produce and cause the dissemination of

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television advertisements for its clients in which credit terms are displayed too briefly for viewers to read them. The Commission's complaint alleged that the corporation also failed to label credit terms as "annual percentage rate" in some advertisements.

McCaffrey and McCall, Inc.

The McCaffrey and McCall, Inc. advertising agency agreed not to represent that "Black Pro" shavers can cure razor bumps unless substantiated by competent and reliable scientific evidence.

Chicago Metropolitan Pontiac Dealers Association, Inc.

The association agreed to comply with the Truth in Lending Act, to display credit terms for at least five seconds, and to state finance charges as an "annual percentage rate" in their televised advertisements.

BayleySuit, Inc.

The Commission charged that the company knew about, but had not recalled, 6,000 survival suits that had life threatening defects. The company agreed to use its best efforts to contact all users of the affected cold water immersion survival suits, and to send a free repair kit to them upon request. The alleged defect caused a flotation pillow that keeps the head and shoulders above water to fail. The Coast Guard estimates that the pillow doubles the survival time.

Trans Union Credit Information Company

The Trans Union Credit Information Company agreed not to give credit information for investigative purposes and to review its credit reporting system to detect and remedy significant inaccuracies in information maintained or reported by the system. Under the agreement, the company will comply with the terms of the Fair Credit Reporting Act.

Foote, Cone & Belding Advertising, Inc.

The advertising agency agreed not to claim that Amana was the only one of six leading microwave ovens to pass an independent laboratory test and that Amana microwave ovens were rated best in a 1980 consumer survey. It agreed not to advertise surveys, test reports, studies or demonstrations unless they are objective and reliable. Further, it will maintain records for three years after use of any surveys, tests or similar evidence.

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PRELIMINARY AND PERMANENT INJUNCTIONS

CONSUMER PROTECTION MISSION

National Transportation Consultants, Inc., et al.

The Commission's complaint charged this company, and five individuals, with false and deceptive representations of their services in the trucker training business. The parties have been permanently enjoined from misrepresenting the earning potential of owner-operators, the quality of the management and business assistance that they could provide, and their ability to help students find financing for buying tractor-trailers. They agreed not to misrepresent the nature and extent of services provided in a training course; the extent or nature of any affiliation with any other entity; and that the training course will qualify consumers for employment as professional truck drivers. The injunction prohibits the parties from accepting payment from consumers who do not meet federal, state, or local certification requirements relating to age, employment, personal history, or physical condition.

Kitco of Nevada, Inc., et al.

The Commission has filed a complaint seeking a permanent injunction, attachment, and consumer redress against this corporation. A U.S. District Court issued a preliminary injunction in June, 1983. The charges allege solicitation of investments from consumers of approximately $24,000 each in exchange for $6,000 worth of manufacturing equipment and allegedly empty promises of "work at home" business opportunity. The consumer is required to use the Kitco machines to assemble plastic articles which Kitco agrees to market. According to the complaint, misrepresentations were made concerning earning power, payment for goods by Kitco, receipt of continuous orders, contracts with large companies, and the production capacity and waste rate of the machines.

J&R Marketing Corporation

The Commission is seeking a permanent injunction and consumer redress for alleged unfair and deceptive practices in the business of advising, evaluating, or facilitating real estate investments. A preliminary injunction was obtained in June, 1983. According to the complaint, consumers participate in a lottery conducted by the Bureau of Land Management to win oil and gas leases. Usually the likelihood of receiving a lease is small. The company represents to consumers that they can

increase their chance of winning a valuable lease. They claim to know of parcels both lightly bid and highly valued. Consumers are told the risk is low and their investment is guaranteed. The Commission contends these representations are false and have caused substantial consumer injury.

First Petroleum Corp. of America

Under this order, the company agreed to pay $125,000 into a redress fund and accept a permanent injunction. The action settled charges that the company falsely represented to consumers that it could virtually assure them of obtaining oil and gas leases. The company may not misrepresent its success rate, must make specified disclosures in contracts or service agreements, and must not misrepresent the service it offers. Eligible consumers will receive pro-rated shares of the redress fund.

Ferrara Foods, Inc.

The Commission filed a complaint seeking a permanent injunction and civil penalties for alleged violations of the Franchise Rule. A preliminary injunction was obtained in April, 1983. The company allegedly failed to disclose financial substantiation for earnings claims, and failed to give prospective customers copies of the contract form five days in advance of execution. It also allegedly misrepresented that the franchises included exclusive distributorships for string cheese, when in fact, anyone could order the product from the manufacturer.

Bureau of Collections, et al.

Don H. Sly, his non-profit company, The Universal Church of Jesus Christ, and its department, the Bureau of Collections, were charged with using illegal practices in collecting debts for creditors. The Commission was granted a permanent injunction to end respondent's violations of the Fair Debt Collection Practices Act. The illegal acts included threats of legal action which cannot be taken or were not intended to be taken; using forms designed to resemble judicial notices; intentional overcharges; using false names for the association; and failing to send debtors a statutory notice of rights under the Fair Debt Collection Act within five days of the initial contact.

Kimberly International Gem, Inc., et al.

The Commission has filed a complaint against this company seeking a permanent injunction and consumer redress for alleged misrepresen-

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tation of the value of the colored gemstones it sells for investment, and the risks involved in investing in those stones. A preliminary injunction was obtained in September, 1983. Alleged misrepresentations include: offering "wholesale" prices which are many times greater than prices retailers pay; delivering gemstones inferior in quality to those ordered; engaging in a "gem- switching" scheme to deprive consumers of valuable gemstones they owned previously; and giving customers "certificates of evaluation" stating excessive replacement values.

Paradise Palms Vacation Club, Inc., et al.

The Commission obtained a settlement as to defendants Ben and Mary Anne Kirk which permanently enjoins Ben Kirk from engaging in deceptive practices in the sale of vacation timeshares, and provides for the payment by each defendant of $50,000 in consumer redress.

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CIVIL PENALTY ACTIONS

COMPETITION MISSION

Joseph Dixon Crucible Company

The Joseph Dixon Crucible Company agreed to pay $600,000 to settle charges that it violated a Commission cease and desist order by participating in a price fixing conspiracy. The 1980 complaint, filed by the FTC in federal court, alleged that the company agreed with competitors to fix prices, sale terms and discounts at which art materials were sold. The judgment enjoins the companies for 10 years from entering into agreements with its competitors to fix prices for the sale of art materials.

Louisiana-Pacific Corporation

A $4 million civil penalty was imposed against Louisiana-Pacific Corporation for violating a 1979 Commission order. Louisiana-Pacific was ordered to divest a Rocklin, California, plant acquired in 1978 as part of its acquisition of Fibreboard Corporation, to settle charges that the acquisition could lessen competition in the manufacture and sale of medium density fiberboard and particle board. Although Louisiana-Pacific located a buyer over a year after the deadline for the divestiture, the FTC denied Louisiana-Pacific's request to approve the acquirer. In addition to the civil penalty award, the Commission asked the Justice Department to request the U.S. District Court for the District of Oregon to appoint a trustee to find a purchaser for the plant.

CONSUMER PROTECTION MISSION

Standard Educators, Inc.

Standard Educators, Inc. agreed in a consent decree to pay $25,000 in civil penalties for allegedly violating a 1971 Commission order. The order prohibited false and deceptive representations in door-to-door sales of encyclopedia. Alleged violations included: selling books at a reduced rate or giving them away in exchange for either endorsement letters, displaying encyclopedia, or maintaining a set for 10 years; attributing the charges for books solely to postage and handling; representing favorable terms as limited to the time of the house call; and describing the offer as not available to the general public. The corporation also agreed to stop contracting with independent distributors found making the prohibited misrepresentations.

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Consumer Finance Corporation

The Consumer Finance Corporation agreed to a $15,000 civil penalty consent decree to settle charges that it violated the Fair Debt Collection Practices Act. The alleged violations included: use of profanity; overbilling; false representation of attorney status; threat of imminent arrest; threat of (illegal) legal action; and failure to answer consumer requests for information.

Pacific Coast Manufacturing Co., Inc.

The Pacific Coast Manufacturing Co. agreed to a $15,000 civil penalty consent decree for allegedly violating the Commission's Labeling and Advertising of Home Insulation (R-Value) Rule. The consent decree enjoins misrepresentations of the fire safety characteristics of insulation, false claims of safety and quality certification, and misrepresentations of the R-value of the product. This is the Commission's first R-Value Rule case.

Super Market Media, Inc.

The Commission executed a consent decree with the company which contained a $10,000 civil penalty, an order to ship approximately 65,000 packages of consumer merchandise, and a permanent injunction against future violations of the Commission's Mail Order Rule. The alleged violations involved misrepresentations of money-back guarantees. This settlement provided consumers with the merchandise they ordered instead of the approximately 1% of value they might have received from bankruptcy proceedings.

Hofmann Construction Co.

The Hoffman Construction Co. agreed to a $65,200 civil penalty consent decree for allegedly violating a 1973 Commission order and the Truth In Lending Act. The company, a seller of mobile homes, allegedly failed to disclose, or improperly disclosed, the annual percentage rate in its real estate credit advertisements.

Aristar, Inc.

Aristar, Inc. agreed to a $90,000 civil penalty consent decree in the first case involving alleged illegal age discrimination under the Equal Credit Opportunity Act. Economic statistical data revealed a higher denial rate for the elderly than for other age groups. The company failed to present adequate explanations for the pattern. Investigations also

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revealed alleged violations of the Fair Credit Reporting Act. The settlement includes a permanent injunction against future violations. This was the first time economic statistical models (econometrics) were constructed for an FTC investigation to detect discrimination patterns.

Li'l Peach Convenience Stores, et al.

L'il Peach agreed to a $10,000 civil penalty consent decree for allegedly violating the Commission's Franchise Rule. The company allegedly failed to disclose required financial information to prospective franchisees prior to the sale of franchises.

The Video Station, Inc., et al.

The consent decree agreed to by the company provided for a $55,000 civil penalty and an injunction against future violations of the Franchise Rule. The company allegedly did not disclose required financial information prior to executing franchise contracts with consumers.

Jim Clark's Beef, Inc., et al.

A consent decree providing for a civil penalty of $10,000 was agreed to by this company to settle charges it injured consumers with false and deceptive advertisements. The alleged violations involved displays of beef of one quality to induce consumer interest, followed by a switch to beef of considerably lower quality for the actual sale. In addition to the penalty, the company agreed to disclose the grade of beef sold, disclose the need for trimming which would reduce significantly the edible yield, and cease representing the standard price as a discount.

Iowa Credit Syndicate Of Fort Dodge, Inc.

The Commission alleged this company violated the Fair Debt Collection Practices Act. The Act prohibits threats of legal actions which may not be taken, and prohibits intentional over-charging of debtors. The company agreed to pay an $8,000 civil penalty, respect an injunction against future misrepresentations, and disclose to debtors their rights under the Fair Debt Collection Practices Act.

Cash Flow, Inc., et al.

This company agreed to a consent decree providing for a civil penalty of $13,500 to settle charges it allegedly violated the Fair Debt Collection Practices Act. The company agreed not to threaten debtors' credit

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records unless it has the capacity and intention to take the actions, and also to disclose to debtors their rights under the Fair Debt Collection Practices Act.

Milton Shaffner

Mr. Shaffner, an attorney who owns and operates a debt collection agency, signed a consent decree providing for a $5,000 civil penalty for allegedly violating the Fair Debt Collection Practices Act. The Act specifically exempts attorneys collecting debts on behalf of, and in the name of, a client. The Commission interpreted the exclusion to apply to attorneys whose debt collection work coincided with legal assistance, not to agencies that offer only debt collection services and are owned by attorneys.

Utah Bureau of Collections, Inc.

The Commission obtained a permanent injunction and a civil penalty of $80,000 against this company for alleged violations of the Fair Debt Collection Practices Act. The company agreed not to allow its employees to use profanity; call during inconveniently late hours; contact debtors at work without permission; call consumers collect; misrepresent the identity of the caller and the purpose of the call; threaten legal action which may not be taken; ask debtors' associates to help them collect debts; or misrepresent its identity and purpose to debtors' associates in order to locate debtors.

Thermtron Products Inc.

Thermtron agreed to a $42,500 civil penalty consent decree for alleged violations of the Labeling and Advertising of Home Insulation (R-Value) Rule. The company is permanently prohibited from using testing procedures not specified by the rule, failing to label insulation packages as required by the rule, and failing to provide retailers and installers fact sheets on R-values.

Allied Publishers Service, et al.

Allied Publishers agreed to a $140,000 civil penalty consent decree for allegedly violating a 1972 Commission order and the Door-To-Door Sales Rule. The FTC's charges alleged that the company used deceptive sales tactics and unfair debt collection practices. The company agreed to change its phone solicitation practices and take steps to ensure that customers understand their cancellation rights.

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Braswell, Inc., et al.

Braswell, Inc. agreed to a $610,000 civil penalty consent judgment for allegedly misrepresenting that its products or services would cure or prevent hereditary baldness. The company is enjoined permanently from making these representations unless the product or service has been approved by the Food and Drug Administration, or efficacy claims are substantiated by reliable scientific evidence.

Union Circulation Company

The Commission obtained a permanent injunction and a civil penalty of $15,000 against this company for alleged violations of the Commission's Cooling Off Rule. Union Circulation, a door-to-door seller of magazines, allegedly failed to provide required cancellation forms, misrepresented buyers' right to cancel, and failed to provide refunds within the required time period after cancellation.

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ADMINISTRATIVE COMPLAINTS

COMPETITION MISSION

Schlumberger Limited

The Commission's complaint alleged that Fairchild Camera and Instrument Corporation's acquisition of Accutest Corporation tended to create a monopoly in the market for automatic computer chip test equipment. The complaint alleged that as a result of the merger, Fairchild, already the dominant firm in the market, would be further strengthened through the elimination of Accutest as a competitor. Fairchild was a wholly owned subsidiary of Schlumberger, Ltd.

CONSUMER PROTECTION MISSION

Rentacolor, Inc., et al.

The Commission complaint alleges that the company violated the Consumer Leasing Act in advertisements promoting leases for color televisions and other video equipment. The advertisements allegedly failed to disclose that the transaction is a lease, the amount of the periodic payments under the lease agreements, the total amount of such payment, and whether an option to purchase the equipment existed. The complaint also alleges that some lease contracts entered into with consumers have similar violations.

Figgie International, Inc.

This complaint alleges that the company's claim that its combination heat detector-smoke detector provides significantly greater fire protection than a simple smoke detector or heat detector is deceptive. The Commission charges that the combination devices do not provide sufficient fire warning protection, and that in nearly all residential fires, life-endangering conditions will occur before the heat detectors sound an alarm.

Rush Hampton Industries, Inc.

The Commmission's complaint alleges that the company made false and misleading representations in advertisements for its air cleaning appliance. The company allegedly stated that the appliance eliminates formaldehyde gas, tobacco smoke, dust, and pollen from household air. The Commission alleges that the appliance can remove no more that 5% of formaldehyde gas from household air, no more than 15% of tobacco smoke, and cannot eliminate pollen or dust.

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PharmTech Research, Inc.

The Commission charged that the company's advertisement claiming that its dietary supplement, "Daily Greens", is associated with a reduction in the incidence of cancer in humans is unfair and deceptive. The complaint alleged that the advertisements referred to a National Academy of Science report which concluded that the ingestion of certain vegetables is associated with a reduction in the incidence of certain cancers; "Daily Greens" is made from dehydrated vegetables; and that the advertisements claim daily use will lead to benefits cited in the report. This is an unfair and deceptive representation, the Commission alleges, because the cited report is expressly limited to consumption of fresh unprocessed vegetables. Consequently, the company would lack a reasonable basis for the claims. The Commission is also seeking a preliminary injunction in federal district court to halt the product's current nationwide print and broadcast advertising campaign.

Amana Refrigeration, Inc.

The Commission charged that advertisements for Amana's "Radarange" microwave ovens falsely claimed Amana was the only brand that passed four safety tests conducted by an independent testing laboratory. The complaint also charges that Amana misled consumers by inaccurately presenting results of a survey that rated consumers' preferences of microwave oven brands. According to the complaint, the vast majority of owners of other brands of ovens did not rate Amana as being the best quality microwave oven, as the Amana advertisements claimed.

Stihl, Inc., et al.

Stihl, Inc. has allegedly violated the Federal Trade Commission Act in advertisements for its chain saws and other power tools. Alleged misrepresentations include claims that in 1980 and 1981, the current Stihl model chain saw was rated best of all home saws tested by a leading consumer magazine, that "power" was a factor in the rating, that its saws start faster and are smoother running than any other saws on the market, and that its power tools last at least twice as long as any other power tool on the market. The Commission contends the magazine test was inapplicable to the model it was linked to. In addition, power was not a factor considered in the test. The Commission further charged that Stihl lacks a reasonable basis for the other claims.

PART III (Adjudicative Stage) CONSENT AGREEMENTS ACCEPTED AND PUBLISHED FOR PUBLIC COMMENT

COMPETITION MISSION

Ford Motor Company

The Ford Motor Company was prohibited from extending advertising allowances to large car rental companies unless the subsidies were also made available to competing small car firms. The complaint included with the consent agreement charged Ford with discriminating against small rental companies by not offering advertising allowances proportionally equal to those given to larger customers. Under the proposed order, Ford was required to offer small car rental companies payment of part of the cost of certain types of Yellow Pages display advertisements.

Flowers Industries, Inc.

Flowers Industries, Inc. was ordered to sell its operating bakery plants in Gadsden, Alabama and High Point, North Carolina to settle antitrust charges its bakery acquisitions may have reduced competition. The complaint alleged that acquisitions eliminated competition and increased industry concentration in various southeastern markets. Under the agreement Flowers was also required to transfer some trade names and trademarks associated with the two plants. In addition, for ten years the consent agreement restricts acquisitions of bakeries.

Gillette Company

The Gillette Company agreed to provide advertising and promotional program opportunities on a proportionally equal basis to both large and small retailers who sell its products. According to the complaint, Gillette offered advertising allowances only to large retailers who had provided promotional services on behalf of Gillette's products. The proposed order required Gillette to offer alternate plans for retailers who did not regularly advertise in newspapers or distribute large numbers of advertising circulars.

Jim Walter Corporation

Jim Walter Corporation and its subsidiary, Celotex Corporation, agreed to divest four asphalt roofing materials plants within 24 months to settle antitrust charges. Under the order, Jim Walter was required to divest roofing plants in three states to an acquiror approved by the Commission. The order further provided that a Commission appointed trustee would divest any plants not sold within fifteen months. Also, for a period of ten years, Jim Walter and Celotex were prohibited from acquiring any interest in an asphalt roofing plant within the defined geographic markets without prior Commission approval.

CONSUMER PROTECTION MISSION

General Motors Corporation

The agreement requires the corporation to make product service publications (PSP) available to the public free or at nominal cost. These publications detail service problems, product modifications, defects, and new servicing techniques. The availability of the PSPs must be advertised in normal national channels (including showrooms) and noted in owner manuals, and a toll free number must be established. It is believed that the PSP will inform consumers of hidden defects in the products and alert them to new maintenance procedures to avoid costly damage. The agreement also provides for the implementation of a nationwide third-party arbitration program to settle complaints of individual owners. The arbitrations must be conducted within recognized arbitration procedure. The expanded public awareness of the arbitration procedure should give consumers the means to settle disputes.

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PART III (Adjudicative Stage)
CONSENT AGREEMENTS ISSUED IN FINAL FORM

COMPETITION MISSION

Texas Dental Association

The *Texas Dental Association* agreed not to interfere with insurance companies' efforts to minimize costs by requesting x-rays to evaluate dentists' planned treatment of policyholders. The complaint alleged that *Texas Dental Association* violated the antitrust laws by organizing a boycott in which its members collectively refused to provide copies of patients' x-rays to requesting insurers. Under the terms of the order, *Texas Dental Association* agreed not to attempt to influence insurance company policies. In addition, for four years Texas Dental Association was required to inform new members about the order.

Gulf & Western Industries, Inc.

Under the terms of a proposed consent agreement, Gulf & Western was ordered to sell its Alabama casket manufacturing facility to a Commission-approved buyer to settle charges that the 1980 acquisitions of National Casket Co. and Wallace Metal Products Inc. would create a monopoly in casket markets. The Commission approved the sale the Alabama facility to a newly formed company. In addition, the order requires Gulf & Western to obtain Commission approval for ten years to acquire a manufacturer of certain types of caskets or related businesses.

Xidex Corporation

Xidex Corporation, the nation's leading manufacturer of duplicating microfilm, agreed to license its microfilm technology at a low royalty rate. The consent agreement settled charges that Xidex's acquisition of the diazo microfilm business of Scott Paper Company and the acquisition of the assets of Kalvar Corporation, a manufacturer of vesicular microfilm, reduced competition in the industry. Xidex was also required, within one year, to divest all patents and technology relating to microfilm production acquired from Kalvar. Xidex' acquisitions in the industry were restricted for a period of ten years.

Borden Inc.

The Commission modified a final order against Borden Inc. which defined the method of pricing to be used in the sale of ReaLemon, a reconstituted lemon juice product. Under the order, Borden must not price ReaLemon so that the product's net revenue for any fiscal quarter in any sales district is less than the variable cost for that quarter and district. Variable costs were defined as those that would not have been incurred if ReaLemon were not produced. The original order, affirmed in 1982 by the Sixth Circuit Court of Appeals, prohibited Borden from selling ReaLemon at "unreasonably low prices," but did not define "unreasonable." A modified order was issued after Borden and the Commission agreed to a settlement incorporating some modifications of the original order.

CONSUMER PROTECTION MISSION

Stihl, Inc., et al.

The Commission charged this company with preparing and disseminating false advertising. Among the claims challenged were that the corporation's chainsaw was rated best by a leading consumer magazine, its saws operate better than any others on the market, and its power tools last twice as long as other brands. Under this consent order the company agreed not to make the challenged claims and to base any future claims on the evidence of one or more competent, reliable sources.

Amana Refrigeration, Inc.

Amana Refrigeration agreed not to advertise contrary to fact that only Amana "Radarange" microwave ovens had passed tests conducted by an independent laboratory. The consent order requires the company to have a reasonable basis for all future representations about the quality and safety of microwave ovens, and for all claims comparing the ovens to those of any competitor. In addition, Amana may not use test or survey evidence to advertise microwave ovens and certain other products unless the results are reported accurately.

Champion Home Builders Co.

Champion Home Builders used advertisements the Commission alleged were false, misleading, or deceptive to promote its solar energy equipment. The Commission alleged that the company made claims that the

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products work automatically with little maintenance, and that the furnaces can withstand 375 degrees fahrenheit. According to the complaint, the products allegedly suffer a high rate of failure due to multiple defects, and high temperature adversely affects them. After the complaint was filed the parties signed a consent order in which the corporation agree to stop the claims, provide cash settlements of up to $1,500 to each qualified consumer, and warn all users of the equipment of fire hazards.

Oglivy & Mather International, Inc.

The advertising agency prepared and disseminated advertisements for the product "Aspercreme" which allegedly were false, misleading, and deceptive. The alleged deception involved advertisements which implied that the drug contains aspirin, that it has been proven more effective than oral aspirin, and that it can penetrate through the skin to relieve arthritic pain. The advertising agency agreed in a consent order not to make representations of a medicinal nature unless it has competent and reliable scientific evidence substantiating the claims

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INITIAL DECISIONS

COMPETITION MISSION

Champion Spark Plug Company

An Administrative Law Judge dismissed a 1980 complaint against Champion Spark Plug Company, the world's largest manufacturer of replacement spark plugs. The complaint charged that Champion's acquisition of The Anderson Company, the nation's largest manufacturer of replacement windshield wipers, reduced competition in the replacement wiper blades and parts market. The Judge determined that low barriers to entry, likely expansion by firms in the market, and the market's trend toward deconcentration had made the market already competitive.

American Medical International Inc.

A decision by an Administrative Law Judge ordered American Medical International Inc. to divest French Hospital because its acquisition in 1979 violated the federal antitrust laws. The complaint alleged that American Medical had attempted to monopolize the hospital market in San Luis Obispo, California with the acquisition of French. The Judge found that the acquisition would eliminate non-price and reduce price competition between French and American Medical's other two area hospitals, as well as restricting competition among the hospitals for the business of insurance companies and other third-party payers. The Judge also found that the acquisition was an attempt to monopolize. American's acquisition of hospitals within a 13 state area were be restricted for a period of 10 years.

General Motors Corporation

An Administrative Law Judge ruled that General Motors Corp. injured competition in the car rental and leasing business by offering large advertising allowances to a few large car rental and leasing firms and not offering the same subsidies to smaller companies. GM was prohibited from granting advertising allowances unless the grants were available on proportionally equal terms to all other competing rental and leasing firms. In addition, GM was ordered for five years to advertise any program in at least two publications specified by the Commission.

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CONSUMER PROTECTION MISSION

Thompson Medical Co., Inc., et al.

An Administrative Law Judge upheld most of the charges of a 1981 Commission complaint against Thompson Medical Company, maker of "Aspercreme." The issues in this matter included whether the corporation directly or indirectly represented in advertisements: "Aspercreme" contains aspirin; it is more effective than orally ingested aspirin for the relief of arthritic, rheumatic conditions and their symptoms; the product acts by directly penetrating through the skin to the site of the arthritis disorder; whether the name "Aspercreme" implies the presence of aspirin; and whether such alleged representations are false, misleading or deceptive. The administrative law judge found that the claims had been made, were false or deceptive, and had caused harm to the public. The company was ordered to: stop using the name "Aspercreme" unless a product contains aspirin or prominent disclosures are made that it is aspirin-free; stop unsubstantiated effectiveness claims; and stop representing that the product is new or involves a new scientific principle.

Cliffdale Associates, Inc., et al.

An Administrative Law Judge upheld charges in a Commission complaint that this company used deceptive or unfair acts in the advertising, selling, and distribution of the "Ball-Matic Gas Save Valve". The device was marketed for gas-powered motor vehicles. The administrative law judge found the claims of significant (20%) fuel savings false. The judge also concluded that the testimonials from consumers were deceptive and that the company lacked evidence to support the claims. The company was ordered to stop the various representations until they could be supported by competent and reliable evidence.

Rentacolor, Inc., et al.

An Administrative Law Judge upheld charges in a Commission complaint that the company violated consumer leasing laws by failing to provide complete disclosures in advertisements and lease contracts. This is the first Commission action brought under the Consumer Leasing Act since it became effective in 1977.

FINAL COMMISSION ORDERS

COMPETITION MISSION

Dairymen, Inc.

The Commission dismissed charges against all parties named in a 1980 complaint challenging the acquisition by Dairymen, Inc. of Munford's wholly-owned subsidiary, Farmbest Foods Inc., rejecting a proposed consent as to Dairymen.

Indiana Federation of Dentists

The Commission ruled that the Indiana Federation of Dentists could not boycott dental insurers who requested copies of existing x-rays for use in determining whether a claim was covered or if less expensive dental treatment should be done. However, the Commission overturned a 1980 decision by an Administrative Law Judge to dissolve the Federation. The order also prohibited the Federation from attempting to influence the policies of dental benefit programs in other respects, or from attempting to induce patients to avoid dentists who cooperate with the dental insurers.

Michigan State Medical Society

The Commission upheld an Administrative Law Judge's decision which found that the Michigan State Medical Society boycotted cost-containment and reimbursement policies of medical insurers. The complaint alleged that the Medical Society, which represents 80 percent of the state's doctors, attempted to fix prices by negotiating agreements with Blue Cross/Blue Shield of Michigan and the state's medicaid program on behalf of its members. The order bars agreements between the Medical Society and insurers which set reimbursement terms for its members, agreements which give the Medical Society the power to cancel participation in insurance programs on behalf of individual doctors, and agreements with its members to regulate reimbursement policies for physician services. The Medical Society is required to notify present and future members of the order's requirements.

Ethyl Corporation

The Commission upheld in part a 1981 Administrative Law Judge's decision that Ethyl Corporation and E.I. duPont de Nemours & Co., the nation's leading producers of lead-based antiknock gasoline additives,

violated the antitrust laws by using a variety of marketing practices which stabilized prices. The Commission found that Ethyl and duPont restrained competition in the lead-based antiknock compound market through the use of advance price announcements, uniform pricing and "most-favored-nation" clauses, which promised customers they would receive the lowest price extended to any other customers. Under the order, Ethyl and duPont are prohibited from using the challenged practices.

Beatrice Foods Company

The Commission dismissed a complaint challenging Beatrice Foods Co.'s 1978 acquisition of Tropicana Products Inc., one of the nation's leading producers and distributors of chilled orange juice. The dismissal overturned an Administrative Law Judge's order that Beatrice must divest Tropicana because the acquisition could substantially lessen competition in the processing, sale and distribution of chilled orange juice to retail food stores. The Commission concluded that while concentration in the ready-to-serve orange juice industry was moderately high in 1978, the very slight increase in concentration resulting from the acquisition did not cause significant harm to competition.

Borg-Warner Corporation

The Commission upheld a 1980 FTC Administrative Law Judge's ruling that it was illegal for two individuals to serve as directors of Borg-Warner, Robert Bosch GmBH and its American subsidiary, Robert Bosch Corporation. All three companies compete in the sale of ignition parts, wire and cable products, and carburetor tune-up kits for foreign cars. The Commission imposed a ten year ban on interlocking directorates. In addition, for the next ten years, all three companies are required to monitor memberships on other boards by its directors.

The Grand Union Company

The Commission overruled a 1980 FTC Administrative Law Judge's decision and dismissed a complaint against the Grand Union Company's 1978 acquisition of Colonial Stores Inc. The Commission found that the record failed to establish that the acquisition of Colonial Stores lessened competition in the retail food industry in relevant markets. The order also dismissed complaints against Grand Union's parent, Cavenham (USA) Inc. and two other related companies.

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Massachusetts Furniture and Piano Movers Association

The Commission upheld an Administrative Law Judge's decision that Massachusetts Furniture and Piano Movers Association conspired illegally to restrain competition in Massachusetts' moving industry. The Order prohibited the association from collective ratemaking and required the group to cancel all tariffs currently on file with the Massachusetts Department of Public Utilities. The Order prohibited the association from: (1) providing a forum for members to discuss rates; (2) influencing the rates members charge or providing non-public information to members about competitors' rate changes; and (3) maintaining a rate or tariff committee that discussed or formulated rates. In addition, the association was required to amend its bylaws to conform with the Order.

CONSUMER PROTECTION MISSION

Bristol-Myers Company

The company was ordered to cease superiority and therapeutic claims unless proven by two or more competent and objective clinical studies. Other provisions of the order prohibit the company from suggesting its products contain special ingredients when such ingredients are commonly used in competing products, and from suggesting the analgesic ingredient of a product is not aspirin if, in fact, it is. The misrepresentations included that Bufferin works twice as fast as plain aspirin, Bufferin is less upsetting to the stomach, Excedrin is more effective than its leading competitors, Excedrin reduces fever better, and Excedrin is more effective than any other over-the-counter drug because it contains four ingredients.

Sterling Drug, Inc.

The company was ordered to cease superiority and therapeutic claims unless proven by two or more competent and objective clinical studies. Other provisions of the order prohibit the company from suggesting its products contain special ingredients when such ingredients are commonly used in competing products, and from suggesting the analgesic ingredient of a product is not aspirin if, in fact, it is. Sterling may no longer claim that its aspirin, Bayer, is tested for quality, purity and freshness against 220 other brands, and that the tests showed Bayer makes the superior aspirin.

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ORDER MODIFICATIONS

COMPETITION MISSION

Hercules, Inc.

The Commission modified a 1970 consent order with Hercules Inc., to eliminate a provision requiring Hercules to obtain FTC approval before acquiring any assets or stock of Columbian Rope Co. and to eliminate recordkeeping provisions. The complaint issued with the order alleged that Hercules' loan to Columbian to purchase rope-making assets in exchange for 34 percent of Columbian stock could reduce competition in the production of various types of rope. All other remedial provisions of the order have either been previously deleted or have expired.

U.S. Pioneer Electronics, Inc.

U.S. Pioneer Electronics, Inc. petitioned the Commission to delete the provision in the 1975 order that prohibited Pioneer's practice of transshipments, which allowed Pioneer to limit the types of retailers, such as discount outlets, to whom its dealers could sell Pioneer products. The Commission voted to modify rather than delete the provision, so that Pioneer dealers could continue to transship to retailers who met specified non-discriminatory standards for product promotion, display and service.

American Medical Association

Under a modified order, the American Medical Association was required to mail a copy of the 1982 FTC order against it to all member physicians and to affiliated state and local medical associations. In addition, the order must be published in one edition each of the AMA's newsletter and journal. The AMA petitioned the Commission to delete the requirement that it send copies of the order to its members by first class mail.

American Dental Association

Under a pre-existing modification agreement, the FTC relieved the American Dental Association of certain requirements under a 1982 order which forbade it from prohibiting truthful advertising by member dentists. While the requirement that the Association send its member dentists a letter announcing the Order was deleted, the Association was still required to publish the order in one edition each of its newsletter

and journal. In addition, the Commission modified the period during which ADA would be required to maintain records and file reports with the FTC.

Foremost-McKesson, Inc.

The Commission modified a 1967 consent order by deleting the requirement that Foremost-McKesson obtain FTC approval before acquiring an interest in any company that manufactures pharmaceutical preparations or engages in the wholesale distribution of drugs, drug proprietaries, druggists' sundries, toiletries, housewares or related products.

Occidental Petroleum Corporation

The Occidental Petroleum Corporation petitioned the Commission to set aside or modify the 1974 consent order which alleged that Occidental and its subsidiary Hooker Chemical Corporation had gained unfair competitive advantage over their competitors through reciprocal dealing, a practice whereby one company sells to a second on the condition that the second sells to the first. The order was modified to allow Occidental to prepare a statistical analysis comparing its purchases with a company to its sales to that company and also ruled that the order would expire 10 years after its March 1974 issuance. The Commission denied Occidental's request to vacate the order.

IC Industries Inc.

At the request of IC Industries Inc., the Commission modified a 1973 consent order which charged that IC's acqusition of Midas-International Corporation lessened competition in the manufacture and sale of automotive replacement parts and prohibited IC from acquiring any U.S. manufacturer or wholesale distributor of brake parts without prior FTC approval for ten years. Under the modified order, Midas can purchase products containing brake friction materials manufactured by Abex Corporation, another IC subsidiary.

Dahlberg Electronics Inc.

The Commission modified a 1974 consent order against Dahlberg Electronics Inc., a hearing aid manufacturer, at the request of the company. Under the original order Dahlberg was prohibited from setting resale prices, telling its dealers which customers they could sell to, which territories they could service, and preventing its dealers from selling competing products. Dahlberg was permitted to suggest prices to its dealers, but not to coerce adherence to the suggested price.

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E&J Gallo Winery

The Commission vacated a 1976 consent order that settled charges E&J Gallo Winery used its market leadership to make it difficult for competitors to obtain effective distribution systems. The order restricted Gallo's relationships with wholesalers at the distribution level and prohibited the company from restricting where or how its dealers could operate. The Commission vacated the order to permit Gallo the same panoply of marketing strategies as its competitors.

Herman Miller, Inc.

The 1967 consent order with Herman Miller, Inc. was modified to allow the office furnishings manufacturer to establish contracts or agreements under which dealers were restricted from selling specified product lines to certain customers. The consent order settled charges Miller reduced competition in the distribution and sale of office furniture by limiting the customers to whom its dealers could sell Miller's products.

Scott Paper Company

The Commission vacated a 1964 order against Scott Paper Company that settled antitrust charges against Scott's acquisition of three paper products companies. The vacated order removed the fourth and final provision which prohibited Scott from acquiring, without prior Commission approval, companies engaged in the manufacture or sale of sanitary paper products such as toilet tissue, facial tissue, paper napkins, paper towels or household waxed paper.

Magnavox Company

The Commission modified a 1971 order against Magnavox Company that prevented product transshipping, the practice of selling to other dealers rather than selling directly to consumers. Although the twelve year old order continues to prohibit resale price maintenance, the modified order eliminates the restrictions preventing Magnavox from requiring dealers to sell only Magnavox products and to carry the full product line.

Sansui Electronics Corporation

The Commission modified a 1975 Order against Sansui Electronics Corporation to allow it to establish non-discriminatory standards for product promotion, display and service for retailers to whom its dealers can transship.

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Xerox Corporation

The Commission modified a 1975 order which settled a 1973 FTC complaint that Xerox monopolized office copier patents. Under the modified order Xerox could advertise and promote its copiers more easily but was required to continue for two years to announce the selling price of its copiers when it announced it would take orders for the lease of copiers.

Sherwood Electronic Laboratories, Inc.

The Commission reopened and modified a 1975 order against Sherwood Electronic Laboratories, Inc. to allow it to prevent transshipment of its products to dealers who did not meet reasonable, non-discriminatory standards of promotion, service and display.

United Audio Products, Inc.

The Commission modified a 1976 Order to allow United Audio Products, Inc. to prevent transshipment of its products to dealers who did not meet reasonable, non-discriminatory standards of promotion, service and display.

Nikko Electric Corporation of America

The Commission modified an Order against Nikko Electric Corporation of America allowing the firm to prevent transshipment of its products to dealers who did not meet reasonable, non-discriminatory standards of promotion, service and display.

CONSUMER PROTECTION MISSION

GC Services Corporation, et al.

This collection agency had been under a consent order which prohibited it from various practices including holding debtors' post-dated checks for more than 60 days. Since the order was issued, the law has changed and the company has shown good faith. The modification removes the 60 day limitation but requires the company to notify debtors at least three business days in advance of depositing their checks, and allows debtors to recall unsecured post-dated checks.

AHC Pharmacal, Inc.

This modification to the Commission order removes the requirement that the company disseminate corrective advertisements. It also allows

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the company to claim that its acne product containing benzoyl peroxide can be effective for treating acne. However, the company may not claim its product is better than competing brands, or that it can cure acne unless it has a reasonable basis for the claims.

H & R Block, Inc.

To conform with changes in the Internal Revenue Service regulations, the Commission modified the requirement in this order that the company obtain an authorization from a customer prior to preparing a tax return in order to use any information on the return to solicit other business. The company must now obtain an authorization by the time it finishes the tax return, and it does not have to specify what information will be used. However, the company must still disclose other entities with which it intends to share the information.

Encyclopaedia Britannica, Inc., et al.

The modifications to the order governing the marketing practices of this company involve changes in the wording and presentation required in advertisements and sales material. In addition, order provisions covering restrictions on the use of key words, and required disclosures to prospective employees were modified.

Fred Meyer, Inc.

Prior to this modification the company had to give customers 10 days after the expiration of a layaway period to decide whether they wanted to complete layaway payments or obtain a refund. The company will now give customers 14 days to settle their accounts. This change was requested by the company in order to simplify their recordkeeping procedures.

Morton-Thiokol, Inc., et al.

Under this modification, the company is no longer required to put extensive warnings in advertisements for "Morton Lite Salt", as long as it discloses the product contains sodium and consumers are directed to read the label warning. The company may now also state that the medical profession has found a link between sodium intake and high blood pressure.

Golden Tabs Pharmaceutical Co., Inc.

The original order prohibited unsolicited mailings of products, and misrepresentations regarding the origin, quality, and terms of free offers. The modification allows the company to advertise a free product as long as the terms of the offer are printed close to the coupons consumers must fill out to receive the free product.

Success Motivation Institute, Inc.

The Commission modified this order to enhance disclosures to prospective purchasers of this company's franchises. Under the new order, a four year financial disclosure on the number of operating franchises and their purchase profile from the company must be disclosed.

Sterling Drug, Inc., et al.

The company presented sufficient scientific evidence to warrant a modification in this order. The company may now represent that "Lysol" disinfectant can reduce the incidence or prevent the spread of colds by killing cold virus on household surfaces.

Equifax, Inc.

In compliance with a federal appeals court ruling, the Commission modified this order to eliminate prohibitions against evaluating and rewarding its employees by the amount of adverse information they gather on consumers.

American Home Products Corp., et al.

The Commission modified its final order against the maker of Anacin in accordance with a ruling by the U.S. Court of Appeals. A provision prohibiting noncomparative effectiveness or side effect claims for any over-the-counter drug was deleted. The modified order was subsequently temporarily stayed at the request of the company.

Flagg Industries, Inc., et al.

This modification removes Flagg from the order which was issued in 1977 against Flagg and Queen Creek Land and Cattle Corp. In return for being released from the order, Flagg will contribute $3.5 million to Queen Creek to ensure the order provisions are met. New requirements were also added to ensure future compliance with the order by Queen Creek.

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Reader's Digest Association, Inc.

Under the modified order, Reader's Digest may now use "simulated checks" and is no longer prohibited from claiming contestants are "lucky" or have been "especially selected" to win a prize. Certain record-keeping requirements were also changed. The modifications were based on current evidence that consumers are no longer misled by such promotional materials.

The Kroger Company

A negotiated settlement between the FTC and Kroger resulted in a 1981 Commission order being modified to allow the company to conditionally use survey-based, comparison price advertisements. Certain other provisions of the order were deleted.

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ADVISORY OPINIONS

COMPETITION MISSION

Burnham Hospital

An Advisory Opinion was issued to Burnham Hospital concerning Burnham's exclusive contract with Prairie Professionals, a group of radiologists, to operate the hospital's radiology laboratory. The Opinion found that the contract would probably not restrict competition among radiologists. The Opinion also said that the fact that Burnham's decision to enter the contract was made in the interest of the hospital and was not the result of efforts by the hospital's medical staff to restrict competition among physicians also suggested that it would not harm competition.

Resource Analysis & Management Group

An Advisory Opinion issued to the Resources Analysis and Management Group discussed its plan to collect price and other information from operators of high-cost natural gas wells, which had been deregulated by the Natural Gas Policy Act of 1978, for use in contract redeterminations between natural gas producers and purchasers. The Commission did not object to the proposed program, subject to certain qualifications set out in the Opinion, and said that disclosure of individual well data to persons not involved in the production or sale of natural gas who required the data solely for research or study purposes would be lawful if they agreed not to disclose the data to others.

Santa Fe Energy Company

An Advisory Opinion issued to the Santa Fe Energy Company discussed the use of intermediaries to obtain and supply natural gas price provisions and other data for use in contract redeterminations. Subject to certain qualifications, the Commission did not object to the use of intermediaries such as the Resource Analysis & Management Group, to supply information regarding prices being paid by pipelines buying gas of similar quality and quantity from competitors in the same producing area.

Rhode Island Professional Standards Review Organization

The Commission issued an Advisory Opinion to the Rhode Island Professional Standards Review Organization concerning its peer review program designed to advise consumers and physicians on the necessity of proposed medical treatment. The Opinion stated that the review program did not appear to involve price fixing, an agreement to avoid competition or other conspiracy in restraint of trade. The Commission further noted that while the program may promote competition, the organization should avoid using the program in ways which discriminate against innovative competitors.

Health Care Management Associates

The Commission issued an Advisory Opinion to Health Care Management Associates, a New Jersey consulting firm. The Opinion stated that its proposed program, designed to monitor the organization, financing and delivery of health care services of a limited number of health care professionals, would not violate federal antitrust laws. The "Cooperating Provider Program" planned by Health Care Management Associates also would provide for the sale of health care services to insureds covered by third party payers under contract with the Association. The Commission advised that the program was procompetitive on balance, because it would generate competition between cooperating providers and other local providers and increase competition among third party payers.

American Academy of Ophthalmology

The FTC issued an Advisory Opinion to the American Academy of Ophthalmology, an organization of physicians specializing in medical and surgical eye care. The Opinion explained that the Academy's proposed code of ethics, which was designed to protect and benefit patients of member ophthalmologists who are members of the Academy, would not violate the Federal Trade Commission Act or any other statutes enforced by the Commission. The Opinion cautioned against possible misuse of four rules in the proposed code that could cause antitrust concerns if not enforced objectively and fairly.

Phosphate Rock Export Association

The Commission issued an Advisory Opinion to the Phosphate Rock Export Association concerning a proposed barter program. The Association requested Commission approval of its plan to annually exchange

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on behalf of its members up to 400,000 metric tons of phosphate rock for sulfur with the Governments of Mexico and Poland. Under the plan, the Association would arrange for the distribution of the sulfur to its participating member firms based on each member's proportionate contribution of the exported phosphate rock. The Opinion stated that the Commission approved the Webb-Pomerene association's limited participation in the barter program as a legitimate "act done in the course of export trade" and that it would not constitute an unlawful restraint of trade in United States markets or have a significant potential negative effect on foreign commerce.

The Coca-Cola Company

The FTC issued an Advisory Opinion to the Coca-Cola Co. stating that the divestiture of Doric Foods Corporation to Doric Holdings, Inc., a newly-formed joint venture, would constitute compliance with the consent agreement provisionally accepted in 1982. The Opinion is conditioned upon the issuance of a final Commission order against Coca-Cola. The consent agreement required Coca-Cola to divest its Doric Foods subsidiary to an acquirer approved in advance by the Commission.

The American Podiatry Association

The Commission's staff issued an Advisory Opinion to the American Podiatry Association at the request of the Association and one of its members, the Podiatry Society of Virginia. The Opinion discussed the Association's proposed peer review program and its guidelines to be used by any of the component review committees representing 8200 doctors of podiatric medicine in the U.S. The program establishes a mechanism whereby patients, insurers or podiatrists may request peer advisory determinations by the member societies to resolve disputes regarding podiatric fees or use of services. The Opinion stated that the proposed peer review would not violate the antitrust laws but, could instead benefit consumers by giving the medical community incentives to pratice in a more cost-conscious manner.

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APPELLATE COURT REVIEW OF COMMISSION ORDERS

American Home Products Corp.

On December 3, 1982, the United States Court of Appeals for the Third Circuit affirmed and enforced in principal part the Commission's order against American Home Products Corp., prohibiting deceptive practices in connection with advertising of over the counter analgesics and other O-T-C drug products.

Grolier, Inc.

On February 10, 1983, the United States Court of Appeals for the Ninth Circuit affirmed and enforced the Commission's order against Grolier, Inc., which prohibited various deceptive practices in the sale of encyclopedias.

Montgomery Ward & Co., Inc.

On November 9, 1982, the United States Court of Appeals for the Ninth Circuit affirmed the Commission's finding that Montgomery Ward had violated the Commission's Rule on Pre-Sale Availability of Written Warranties by its failure to provide at least one warranty binder per sales floor, and reversed the Commission's holding that Wards had violated the Rule through failure to maintain at least one sign per department announcing the availability of warranty information. The Court also vacated the Commission's order.

Russell Stover Candies, Inc.

On September 29, 1983, the United States Court of Appeals for the Eight Circuit reversed the order of the Commission, which had held that Russell Stover's announced policy of refusing to continue dealing with any retailer who sells its product at less than retail prices designated by Stover resulted in a vertical price fixing agreement that was illegal *per se*. The court of appeals held that under *United States v. Colgate*, a simple refusal to sell to customers who will not sell at prices suggested by the seller is permissible under the Sherman Act.

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SUPREME COURT REVIEW OF COMMISSION ORDERS

Borden

On May 23, 1983, the Supreme Court granted Borden's petition for a writ of certiorari and remanded the case to the Sixth Circuit for entry of an order vacating the Sixth Circuit's decision and remanded the case to the Commission for entry of a consent agreement with Borden. The Commission had recommended this course of action in response to Borden's petition for certiorari.

Francis Ford, Inc.

On November 8, 1982, the Supreme Court denied, by a vote of 7-2, the Commission's petition for a writ of certiorari, thereby letting stand a holding of the United States Court of Appeals for the Ninth Circuit that the Commission had exceeded its authority when it proceeded by adjudication rather than rulemaking to challenge certain allegedly unfair practices of Francis Ford.

Herbert R. Gibson, Sr., et al.

On April 4, 1983, the Supreme Court denied the request of Herbert R. Gibson, Sr. and others for a writ of certiorari, therby letting stand the opinion of the United States Court of Appeals for the Fifth Circuit, which had affirmed and enforced the Commission's order prohibiting repetition of unlawful boycotts and payments of unlawful brokerage in violation of Section 2(c) of the the Clayton Act as amended by the Robinson-Patman Act.

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INTERVENTIONS

A. Statements Presented to Other Agencies

Tennessee Department of Public Health

FTC joint Bureau Comments filed with the Board for Licensing Health Care Facilities of the State of Tennessee, supporting making hospital privileges available to qualified expanded-practice nurses in appropriate circumstances because it would help ensure that such nurses are able to offer the services they have been trained and authorized by state law to provide.

Postal Rate Commission

FTC joint Bureau Comments stating that postal rate changes might be more efficient if a series of rate changes could be established at one rate hearing.

ICC

ICC oral presentation in ICC Ex Parte No. 346, Sub. No. 8, Exemption from Regulation—Boxcar Traffic.

MCRSC

Letter from James C. Miller III to the Honorable Robert Packwood, Chairman, Motor Carrier Ratemaking Study Commission (with copies to other MCRSC Commissioners) commending the MCRSC staff report on collective ratemaking, and recommending that antitrust immunity should be eliminated for all aspects of collective ratemaking.

FCC

FTC joint Bureau Comments submitted in FCC Ct. Dkt. No 82-434, Cable Cross Ownership.

California Public Utilities Commission

Comments submitted in Case No. 10368, Order to Show Cause Why Collective Rate Making Should Not Be Abolished (Decision No. 82, 11 045).

ICC

FTC joint Bureau Comments submitted in ICC Ex Parte No. MC-166, Pricing Practices of Motor Common Carriers of Property Since the Motor Carrier Act of 1980.

ICC

FTC joint Bureau Supplementary ICC Comments on the Exemption of Motor Contract Carriers From Tariff Filing Requirements submitted in ICC Ex Parte No. MC-165.

Delaware Legislature

Commission letter to Representative Roger Roy, House of Representatives, State of Delaware, opposing bill that would have limited freedom of auto dealers to locate in Delaware.

FCC

FTC joint Bureau Comments submitted in FCC BC Dkt. No. 82-345, Amendment of 47 C.F.R. 73.658(j); The Syndication and Financial Interest Rule.

DHHS

Commission letter to Carolyne Davis, Administrator of Health Care Financing Administration, on DHHDS Matter BPP-519-P, on proposed revisions to the Conditions of Particiption for Hospitals in Medicare and Medicaid.

OSHA

Commission letter to Thorne G. Auchter, Assistant Secretary of Labor, on OSHA Docket S-105, regulations relating to testing laboratory accreditation.

DOC

Commission Prehearing Brief submitted to the Department of Commerce in the matter of Certain Softwood Lumber Products from Canada Countervailing Duty Proceedings.

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FCC

FTC joint Bureau reply comments submitted in FCC BC Dkt. No. 82-345, Amendment of 47 C.F.R. 73.658(j); The Syndication and Financial Interest Rule.

OMB

Commission letter to OMB on the Department of Transportation's drafts of the Truck Deregulation Act of 1983 and the Surface Freight Forwarder Deregulation Act of 1983.

ITC

Letter to ITC regarding *Portland Hydraulic Cement from Australia and Japan*, Inv. Nos. 731-TA-108, 109. (Case involving cement dumping).

DOC

Commission comments to DOC regarding *Export Trade Certificates of Review*.

ITC

Brief submitted by the FTC supporting the position, contrary to petitioners' views, that the ITC should not exclude from the domestic color television industry the production facilities owned by Japanese, Korean, and Taiwanese Corporations.

Postal Rate Commission

ECOM Proceeding

a. Notice of the FTC's intention to intervene as a limited participant in the matter of Electronic Computer Originated Mail (E-COM) Rate Classification Changes, 1983, Docket No. R83-1.
b. FTC joint Bureau Comments submitted in PRC Docket No. R83-1, Response to Motion for Waiver, opposing modification of the test period requiring E-COM provided by the USPS to fully recover its costs during fiscal year 1984.
c. FTC joint Bureau comments (Docket No. R83-1) to the PRC on the competition issues inherent in the E-COM Rate and Classification changes.

d. FTC staff comments (Docket No. R83-1) to the PRC: Objections and Responses to the USPS's Interrogatories to the FTC.

Motor Carrier Ratemaking Study Commission

Testimony by James C. Miller III on collective ratemaking in the intercity bus industry, including submission of FTC staff analysis, "Collective Ratemaking in the Intercity Bus Industry."

F.A.A.

FTC comments submitted in the FAA Notice of Proposed Rulemaking 77-19C concerning parts manufacturer approvals.

FERC

Staff statement before the Federal Energy Regulatory Commission on the purchasing practices of interstate natural gas pipelines.

ICC

FTC joint Bureau comments submitted in Ex Parte No. MC-165 (Sub-1), Motor Contract Carriers of Property; proposal to allow issuance of permits authorizing industry-wide service.

Virginia Health Commissioner

Staff Comments to the Health Commissioner of the State of Virginia concerning a request for a certificate of public need by a home health care firm (Total Patient Care).

S.E.C.

Commission letter to the Securities and Exchange Commission (S.E.C.) commenting favorably on the SEC's proposed rule (22n-6), allowing mutual funds, underwriters and brokers to vary the sales commissions that investors pay when purchasing mutual fund shares.

FERC

FTC submission of Motion for Leave to Intervene in *Central Illinois Light Co. v. Panhandle Eastern Pipe Line Co.*, Federal Energy Regulatory Commission (FERC) Dkt. No. RP 82-105-000.

Federal Reserve Board

FTC joint Bureau comments submitted to the Federal Reserve Board commenting on the proposed modification of Regulation B which implements the Equal Credit Opportunity Act.

B. Statements Presented to Congressional Committees and State Legislature Committees

Delaware House Committee on Revenue and Finance

Testimony by Andrew Strenio for Commission before Delaware House Committee on Revenue and Finance on Delaware Senate Bill No. 26, Motor Vehicle Franchising Act.

Hawaii House Consumer Protection and Commerce Committee

Commission letter to Hawaii House Consumer Protection and Commerce Committee opposing S.B. 904 "A Bill for an Act Relating to Fair Dealership Practices."

California Senate

Testimony by Harrison Sheppard (San Francisco Regional Office) before California Senate on S.B. 440 "An act to amend Section 651 of the Business and Professions Code, relating to professional advertising."

California Assembly Health Committee

Testimony by Ronald Bond to the California Assembly Health Committee on AB 1925 and 1926, bills that would foster competition in the delivery of vision care, by repealing several statutes that limit forms of commercial practice by optometrists and opticians.

House Judiciary Committee

Testimony by James C. Miller III before the Subcommittee on Monopolies and Commercial Law of the House Judiciary Committee approving H.R. 878, the Shipping Act of 1982.

Oregon Legislature

Testimony by Dennis McFeely (Seattle Regional Office) before the Oregon Legislature opposing H.B. 2961 which would authorize exclusive territories for wine distributors.

House Energy and Commerce Committee

Comments submitted by the Commission opposing H.R. 1234, the "Fair Practices in Automotive Products Act," which proposes certain "domestic content" levels for cars and trucks sold in the U.S. and opposing H.R. 3113, "The Domestic Automobile Industry Revitalization Act," which proposes certain protectionist features for the U.S. auto industry.

Senate Committee on Banking, Housing and Urban Affairs

Testimony by Commissioner George W. Douglas on the future direction of the banking and financial services industries.

California State Assembly

Testimony by Harrison Sheppard for the San Francisco Regional Office before the California State Assembly on S.B. 440, "An act to amend Section 651 of the Business and Professions Code relating to professional advertising."

FERC

Staff statement before the Federal Energy Regulatory Commission on the purchasing practices of interstate natural gas pipelines.

Senate Finance Committee

Commission comments on proposed revisions to the medicare and medicaid programs contained in S.643, the "Health Care Financing Amendments of 1983." The comments relate to several sections of the bill (including accreditation) that may affect competition and consumer protection in the health care services and prepayment markets.

House Committee on Public Works and Transportation

Commission Testimony by James C. Miller III before the Subcommittee on Aviation of the House Committee on Public Works and Transportation opposing H.R. 2053, the "Air Travelers Security Act of 1983."

Commerce, Transportation & Tourism Subcommittee of the House Energy & Commerce Committee

Commission comments opposing enactment of H.R. 3591, the "Sales Representation Contractual Relations Act" because of the bill's potential for creating anticompetitive effects.

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C. Reports Released to the Public

Report on *Entrepreneurial Trends in Health Care Delivery*

Consultant report (by Institute for Health Policy Studies, University of California, San Francisco) analyzing the development of retail dentistry and freestanding ambulatory services.

Report on *Airport Access Problems: Lessons Learned from Slot Regulation by the FAA*

Bureau of Economics Staff Report to the FTC analyzing FAA regulation of the number of landings per hour (slots) at certain airports and proposing the substitution of a market approach to slot allocation.

D. Amicus Curiae Briefs

Court of International Trade

Request for permission to file briefs in carbon steel proceedings *amicus curiae*, before Court of International Trade.

Court of International Trade

Brief by the FTC as *amicus curiae* before the Court of International Trade on countervailing duties on imported carbon steel.

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ECONOMIC WORKING PAPERS

Assessing the Competition Potential of Health-Care Markets, Judith R. Gelman. October 1982.

Measuring the Value of Life From Consumer Reactions to New Information, Pauline M. Ippolito and Richard A. Ippolito, October 1982.

Market Definition in Antitrust Analysis: Comment, Robert A. Rogowsky and William F. Shughart II, Revised October 1983.

The Impact and Relevance of the 1911 General Electric Lamp Case, Robert P. Rogers, November 1982.

Market Share and Profitability: A New Approach, Malcom B. Coate, January 1983.

The English Economy Following the Black Death, Judith R. Gelman, Revised November 1982.

Raising Rivals' Costs, Steven C. Salop and David T. Scheffman, January 1983.

Innovation and Market Structure: A Survey, Morris E. Morkre, April 1983.

Capital-Biased Subsidies, Bureaucratic Monitoring, and Bus Scrapping, Mark W. Frankena, April 1983.

Market, Firm and Economic Performance: An Empirical Analysis, Stephen Martin, June 1982.

The Application Of Tobit and Probit Estimation to Aggregate Data. Frederick I. Johnson, June 1983.

The Imprecision Of Traditional Welfare Measures In Empirical Applications, Frederick I. Johnson, June 1983.

Causality Tests For Market Extent Applied to Petroleum Products, Margaret E. Slade, June 1983.

Successful Efforts And Full Cost Accounting As Measures Of The Internal Rate Of Return For Petroleum Companies, Marvin Rosenberg, June 1983.

The Regressive Nature of Civil Penalties, Phyllis Altrogge and William F. Shughart II, June 1983.

Warranties, Tie-Ins, And Efficient Insurance Contracts: A Theory And Three Case Studies, Jeffery A. Eisenach, Richard S. Higgins and William F. Shughart II, June 1983.

Intra-Firm Subsidization and Regulation: Do Profits Cover Losses, Or Do Losses Justify Profits, And Does It Matter?, Oliver Crawe, June 1983.

Mergers and Market Share, Dennis C. Mueller, June 1983.

A Theory Of Cost And Intermittent Production: Some Antitrust Implications, Michael T. Maloney, June 1983.

The Usefulness Of Accounting Profit Data: A Comment On Fisher And McGowan, William F. Long and David Ravenscraft, June 1983.

Forms Of Competition And Contracting In The Private Marketing Of Collective Goods, Earl Thompson, August 1983.

The Measurement Of Firm Cost Curves In The Steel Industry, Robert P. Rogers, September 1983.

Tie-Ins Involving Bundles With Fixed Proportions Demand, Judith R. Gelman, 1983.

The Price and Profit Effects of Horizontal Merger: A Case Study, David M. Barton and Roger Sherman, August 1983.

Age Discrimination In Credit Markets, Samuel L. Myers, Jr., May 1983.

MISCELLANEOUS ECONOMIC POLICY PAPERS

Competition and Collusion In Electric Equipment Markets: An Economic Assessment, David Lean, Jonathan Ogur, and Robert Rogers, July 1982.

Retrospective study of the famous electrical equipment price-fixing conspiracy of the 1950's. Concluded that the conspiracy had raised prices in some markets, and that despite the remedies handed out in the case, facilitating practices allowed some prices to be raised after the case was concluded.

The Determinants of Persistent Profits: An Empirical Study, Dennis Mueller, June 1983.

Concluded that persistent profits among large U.S. corporations stem from firm-specific factors such as patents, rather than from barriers to entry.

Airport Access Problems: Lessons From Slot Regulation By The FAA: An Economic Policy Analysis, Donald Koran and Jonathan Ogur, May 1983.

Estimated potential gains to consumers from using market system for allocating landing slots instead of the present administrative system. Current losses estimated in the range of tens of millions of dollars per year.

Review Of The Economic Basis For Broad-Based Horizontal Merger Policy, Paul Pautler, forthcoming in *Antitrust Bulletin*, Fall, 1983.

Part of the analysis performed in connection with merger guidelines, this article reviews much of the theoretical and empirical research produced since 1968 on the economics of horizontal mergers. Concludes that the evidence underlying the pre-1968 consensus on merger policies was not as strong, consistent, or unambiguous as had been thought.

When Would A Merger Creating A Monopoly Lead To A Lower Price?, Walter Vandaele, Alan Fisher, and Robert Lande, forthcoming in *California Law Review*, December, 1983.

Identifies the cost and other conditions under which a merger transforming an industry from competitive to monopoly pricing could bring a decrease in marginal costs sufficient to lead the new monopoly price to be as low or lower than the pre-merger competitive price.

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LINE OF BUSINESS PROGRAM RESEARCH PAPERS

Sales-At-Risk: The Importance of Multi-market Contracts in American Manufacturing, Robert Feinberg, December 1982.

Market Share, Concentration and Profits: Intra-Industry And Inter-Industry Evidence, William F. Long, December 1982.

Economies of Integration, David J. Ravenscraft, December 1982.

R & D And Declining Productivity Growth, Frederick M. Scherer, May 1983.

Capital Costs and Profitability, John T. Scott and George Pascoe, September 1983.

The Usefulness Of Accounting Profit Data: A Comment On Fisher And McGowan (Franklin Fisher and John McGowan, On The Misuse Of Accounting Rates Of Return To Infer Monopoly Profits, William F. Long and David J. Ravenscraft, *American Economic Review*, March 1983.

An Alternative Interpretation Of Seller Concentration, Capital Intensity, and Profitability, John T. Scott and George Pascoe, August 1983.

Firm Versus Industry Variability in R & D Intensity, John T. Scott, R & D, Patents, and Productivity, NBER Conference Volume, Forthcoming September 1984.

Domestic Profit Advantages Of Mulitnational Firms, Anita Benviganti, August 1983.

International Transfer Pricing by U.S. Manufacturing Firms, August 1983.

Growth By Diversification: Entrepreneurial Behavior In Large-Scale United States Enterprises, Frederic M. Scherer, August 1983.

Aggregate Production Function Results Using FTC Line Of Business Data, Memorandum from Meta Systems, Inc. to Ed Leviton, EPA, June 1983.

Patent Equation Results From The FTC Line Of Business Data, Memorandum from Meta Systems, Inc. to Ed Leviton, EPA, July 1983.